# IN THE COURT OF COMMON PLEAS FOR CHAMPAIGN COUNTY, OHIO

HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Plaintiff,

V.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402,

Defendant.

Case No.

Judge

# COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

ANSPACH MEEKS ELLENBERGER LLP Robert M. Anspach (0017263) J Randall Engwert (0070746) Charles D. Rittenhouse (0088012) 300 Madison Ave., Suite 1600 Toledo, Ohio 43604-2633 Telephone: (419) 246-5757 Facsimile: (419) 321-6979

Attorneys for Heartland of Urbana OH, LLC

Now comes Heartland of Urbana OH, LLC, d/b/a Heartland of Urbana, by its attorneys and the law firm Anspach Meeks Ellenberger LLP, and for its *Complaint for Injunctive and Other Relief* against McHugh Fuller Law Group, PLLC, to demonstrate that Heartland of Urbana is entitled to a temporary restraining order, preliminary and permanent injunctive and other relief.

#### INTRODUCTION

1. Through this lawsuit, Heartland of Urbana, a skilled nursing facility, seeks to enjoin the campaign of false and misleading advertising waged by McHugh Fuller Law Group, PLLC. In a clear effort to encourage tort litigation against Heartland of Urbana, and other similarly situated skilled nursing facilities throughout Ohio, and to profit greatly therefrom, Defendant distributes advertisements of sensational content (see e.g. Exhibits A and B), which contain deliberately misleading references to certain government surveys, performed upon Heartland of Urbana's

facility, in order to deceive Heartland of Urbana's clientele and the citizens of the surrounding community into believing that Heartland of Urbana is unsafe and has harmed their loved ones and community members. As explained below, the messages contained in these advertisements are false and misleading.

- 2. By purposefully misrepresenting the nature of the government inspections, or surveys, and by omitting critical information specific thereto, Defendant is likely to deceive the public and, contemporaneously, cause significant reputational and monetary harm to Heartland of Urbana. Therefore, Defendant's false advertising campaign violates Ohio's Deceptive Trade Practices Act, R.C. Chapter 4165. Defendant must be temporarily, preliminarily and permanently enjoined from further engaging in such deception at the expense and detriment Heartland of Urbana and the public.
- 3. In order to prevent further the immediate and irreparable injury that has already occurred and will surely continue from Defendant's meretricious solicitations, and pursuant to Civ.R. 65, Heartland of Urbana requests that this Court promptly enter a temporary restraining order to immediately prevent any further damage issuing from the print and online iterations of Defendant's advertisement and issue a preliminary and permanent injunction following a hearing on these allegations.
- 4. Finally, given the bad faith and willful nature of Defendant's false and deceptive advertising, Heartland of Urbana prays this Court assess against Defendant all reasonable attorneys' fees and costs incurred by Heartland of Urbana in prosecuting these claims.

## PARTIES, JURISDICTION, AND VENUE

- 5. Heartland of Urbana OH, LLC, (hereinafter "Heartland of Urbana") is an Ohio limited liability company with its principal place of business located at 741 E. Water Street, Urbana, Ohio, 43078.
- 6. Defendant McHugh Fuller Law Group, PLLC, (hereinafter "McHugh Fuller") is a professional limited liability company organized under the laws of Mississippi and authorized to transact business in Mississippi and West Virginia, whose attorneys regularly solicit and contract for representation of clients in Champaign County and throughout Ohio.
- 7. McHugh Fuller maintains its principal office at 97 Elias Whiddon Road, Hattiesburg, Mississippi 39402.
- 8. McHugh Fuller is subject to personal jurisdiction before this Court pursuant to the Ohio Revised Code for contracting to supply services and transacting business in this state. R.C. 2307.382(A)(1-2).
- 9. Venue and jurisdiction are proper in this Court for Champaign County pursuant to the Ohio Civil Rules. *Id.* at 3(B)(3 and 6).

#### STATEMENT OF FACTS

#### Defendant's Advertising Campaign

- 10. Heartland of Urbana operates an 85 bed skilled nursing facility, located at 741 E. Water Street, Urbana, Champaign County, Ohio.
- Heartland of Urbana's facility is ranked by the federal government as a "Five Star" nursing facility, which is the highest ranking available to a nursing home. Heartland of Urbana also received a "Five Star" rating for the government health inspection (or "survey") category.

- 12. McHugh Fuller have no office or place of business in Ohio. However, attorneys with the law firm are licensed to practice law in Ohio and regularly solicit for clients in Ohio, and pursue legal action on behalf of their clients in Ohio.
- 13. McHugh Fuller advertises its services across the country in an effort to bring claims against skilled nursing facilities, and have advertised directly to citizens of Champaign County and Urbana, Ohio, and those who are or are related to past and present residents of Heartland of Urbana.
- 14. McHugh Fuller's systematic efforts to induce clients to bring suit against Heartland of Urbana and other skilled nursing facilities include a pattern of ongoing newspaper and online advertisements, which are false, fraudulent, deceptive, and misleading. McHugh Fuller is aware of the false and deceptive nature of these advertisements.
- 15. Most recently, McHugh Fuller targeted Heartland of Urbana by taking out a full-page print advertisement in the Urbana local newspaper, the *Urbana Daily Citizen*, and an identical and correlating digital advertisement on the newspaper's website. True and accurate copies of the advertisement, including the print advertisement as it appeared in the printed newspaper and color print of the digital copy, are attached to this *Complaint* as Exhibits A and B, respectively.
- 16. The printed newspaper advertisement ran on December 13, 2014. The online digital copy of the same advertisement first appeared on the *Urbana Daily Citizen* website on the same date, and has ongoing and uninterrupted presence from that date to the day of this filing. *See ATTENTION!* The government..., URBANA DAILY CITIZEN, Dec. 13, 2014, http://ads.urbanacitizen.com/urbana-oh/communication/newspaper/urbana-daily-citizen/2014-12-13-1442672-attention-the-government-has-cited-heartland-of-urbana-nursing-and-

rehabilitation-center-for-failing-to-provide-necessary-care-and-services-to-maintain-the-highest-well-being-of-each-resident-if-you-suspect-that-a-loved-one-was-neglected.

- 17. The advertisement contains a photograph of the front exterior of Heartland of Urbana's facility, including the signage at the front of the property, reading "HCR ManorCare: Heartland of Urbana; Nursing and Rehab. Center; Alzheimer's Care."
- 18. The photograph on the advertisement is accompanied by the following solicitation:<sup>1</sup>

#### ATTENTION!

The government has cited<sup>2</sup>

#### HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was **NEGLECTED** or **ABUSED** at Heartland of Urbana, call **McHugh Fuller** today!

Has your loved one suffered?

Bedsores

Broken Bones

Unexplained Injuries

Death

1-800-939-5580

[McHugh Fuller Law Group]

<sup>&</sup>lt;sup>1</sup> The quoted portion of the advertisement takes into account only the language and the use of capital letters and boldface font. It does not account for the relative and varied size of the advertisement's fonts or the use of color, including the appearance of the words neglected, abused, and death in red. See Exhibits A and B.

<sup>&</sup>lt;sup>2</sup> The advertisement's use of the word "cited" refers to routine surveys performed in accordance with 42 C.F.R. 483 et seq., known as the "OBRA Regulations," which serve as the basis for determining whether a skilled nursing facility may participate in the Medicare reimbursement program. See id. at 483.1(b); see also R.C. 3721.02. The OBRA Regulations are administered by state surveyors with oversight and additional levels of surveys conducted by the federal Centers for Medicare and Medicaid Services ("CMS"). Particularly, CMS contracts with each state to carry out the annual and periodic survey functions to determine whether nursing facilities are in substantial compliance with the OBRA Regulations, so that they may qualify for reimbursement. See 42 U.S.C. 1395aa. Under the OBRA Regulations, over 91 percent of nursing homes surveyed are found to have "deficiencies" indicating that they are not in substantial compliance with the conditions of participation.

- 19. McHugh Fuller's advertisement states the government "has cited" Heartland of Urbana "for failing to provide necessary care and services to maintain the highest well-being of each resident." The "has cited" language leads the reader to believe that the alleged citation has been recent. This is itself and alone, apart from the rest of the advertisement, false and deceptive, because Heartland of Urbana has not had a citation remotely similar to the advertisement's language since June of 2010, more than four years ago.
- 20. Additionally, McHugh Fuller's advertisement fails to disclose that any alleged deficiency of the sort quoted in the advertisement in fact did not cause any harm to any nursing home patient, or that the facility corrected and removed the alleged deficiencies from June 2010.

# Defendant's Awareness of the False and Deceptive Nature of Their Advertisements

21. McHugh Fuller has been previously enjoined in Georgia for an effectively identical advertisement appearing, as here, in both print and online editions of the community newspaper local to the given skilled nursing facility. The plaintiff there was another skilled nursing facility, known as Heritage Healthcare of Toccoa. Based upon the correlative advertisement, the Superior Court of Stephens County, Georgia, found first that "Defendant's advertisement is false and misleading and therefore violates Section 10-1-372 of the Georgia Uniform Deceptive Trade Practices Act," and additionally that "(i) Plaintiff will be irreparably injured as a result of Defendant's advertisement; (ii) the balance of hardship tips decidedly in favor of Plaintiff because Defendant will not suffer significant or irreparable injury through entry of this Order; and (iii) the entry of this Order is in the public interest." *Pruitthealth—Toccoa, LLC v. McHugh Fuller Law Group, PLLC*, Civil Action No. 14-SU-CV-176CC (Stephens County, GA, June 2, 2014), attached hereto as Exhibit C.

- 22. Heartland of Urbana has not had a citation of any kind for over two years, and has not had a citation even approximating that suggested by the advertisement ("failing to provide necessary care and services to maintain the highest well-being of each resident") for over four years.
- 23. Heartland of Urbana has been deficiency free (that is, without government survey citation of any kind) since October 1, 2012, over two years prior to the publication of McHugh Fuller's advertisement.
- 24. The citation from October 1, 2012, was of a particular nature entirely distinct from the aspersions of McHugh Fuller's advertisement. The October 2012 citation was a level "D" citation, the least severe degree that can be cited by the government for finding a facility out of "substantial compliance." A level D citation means that no resident experienced any actual harm as a result of an isolated deficiency, but only the "potential" for harm. *See* CMS Scope and Severity Grid, attached as Exhibit D.<sup>3</sup>
- The language of McHugh Fuller's advertisement suggests, though it does not accurately 25. quote, the language of an "F309" citation, which reads, "Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care." State **Operations** Manual. Appendix PP, page 157 etseq., http://cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\_pp\_ guidelines\_ltcf.pdf.
- 26. McHugh Fuller's advertisement intentionally misstates and mischaracterizes the language of the F309 tag, omitting material language, such as the term "practicable," in order to give a false

<sup>&</sup>lt;sup>3</sup> Also available online within the context of the CMS Nursing Home Data Compendium, 2013, which is the most recent edition at the CMS website. http://www.cms.gov/Medicare/Provider-Enrollment-and-CertificationandComplianc/downloads/nursinghomedatacompendium\_508.pdf.

impression that the government requires Heartland of Urbana to obtain a higher degree of patient care than is actually required.

- 27. Heartland of Urbana has not received an F309 citation since June 24, 2010, more than *four* years prior to McHugh Fuller's advertisement. The citation in 2010 was a level "E," which is the second least severe citation for a facility to be out of substantial compliance. A level E citation, like level D, means that no resident experienced any actual harm. See Exhibit D.
- 28. In addition to misquoting the F309 citation language, McHugh Fuller's advertisement falsely and deceptively misstates the nature of the government censure against Heartland of Urbana in 2010. Specifically, while the advertisement states that the government "has cited" Heartland of Urbana "for failing to provide the necessary care and services to maintain the highest well-being of each resident," the actual language of the citation stated that the facility had "failed to ensure residents received timely bowel management, antibiotic therapy and emergency services." Department of Health and Human Services, Centers for Medicare & Medicaid Services, Form OMB NO. 0938-0391, June 24, 2010, at 15 of 23, attached as Exhibit E.
- 29. Compounding the deceptive and misleading advertising practices detailed above, McHugh Fuller failed to include any reference to the survey purportedly forming the basis of the solicitation. Given that it appears the citation forming the basis of the advertisement is more than four years old, it is virtually impossible for the general public to ascertain the veracity of the solicitation and determine its misleading nature for themselves.

## Immediate and Irreparable Harm

30. As a result of McHugh Fuller's advertisement, Heartland of Urbana has suffered numerous harms including, but not limited to, immediate and irreparable reputational and stigmatic harm in the Urbana community as well as reputational harm in the skilled nursing industry and to the

industry as a whole. Reputational and stigmatic injuries, by their very nature, are inevitably irreparable.

## Ohio and Other States' Policies against Advertisements Referencing Survey Reports

- 31. Ohio and other states have articulated policies and legislation against using information from survey reports for legal advertisements or for any other purpose than "to determine the home's compliance with this chapter or another chapter of the Revised Code." R.C. 3721.02(F)(1); see also e.g. Facilities, Providers & Managed Care Plans, Pennsylvania Department of Health (last accessed Dec. 23, 2014), http://www.portal.state.pa.us/portal/server.pt/community/facilities,\_providers\_managed\_care\_plans/11603.
- 32. While Ohio law specifies that "[e]xcept as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section . . . shall be used solely to determine the home's compliance," a recent Ohio Bill, signed into law by the Governor on December 19, 2014, taking effect 90 days from the date of signing, amends R.C. 3721.02 and 5165.67 to expressly prohibit advertisements from referencing and citing to results of any such survey, unless the advertisement includes a list of information specific to the cited survey, inspection, or investigation. *See* Am.Sub.H.B. No. 290, Sec. 3721.02, 130<sup>th</sup> General Assembly Regular Session, 2013-2014, pp. 15 19. Attached hereto as Exhibit F.

# COUNT ONE—DECEPTIVE TRADE PRACTICES ACT R.C. CHAPTER 4165

- 33. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-32.
- 34. The Urbana advertisement of December 13, 2014, is inherently and facially false, confusing, and misleading, and therefore violates the Ohio Deceptive Trade Practices Act ("the

Act"), codified at R.C. 4165.02, inasmuch as Defendants have engaged in deceptive trade practice by doing *inter alia* the following:

- a. causing a likelihood of confusion or misunderstanding with respect to the government's certification of services in the form of regular surveys (see id. at 4165.02(A)(2) and (3)); and
- b. representing that Heartland of Urbana's services have certain characteristics they do not have (see id. at 4165.02(A)(7)); and
- c. representing that Heartland of Urbana's services are other than fully sufficient and currently in compliance with federal and state requirements and standards (*see id.* at 4165.02(A)(9)); *and*
- d. disparaging Heartland of Urbana's services and business by false representation of fact (see id. at 4165.02(A)(10)).
- 35. The Act provides for injunctive relief where it is found that a defendant has committed an act constituting a deceptive trade practice as defined by statute. Under certain circumstances, it provides also for attorney's fees to the prevailing party (*see id.* at 4165.03(B)), viz.:
  - a. Defendants have "willfully engaged" in the trade practices articulated in ¶38(a-d), supra, and are therefore subject to an assessment of Heartland of Urbana's reasonable attorney's fees.
- 36. As a result of McHugh Fuller's advertisement through the *Urbana Daily Citizen*, Heartland of Urbana has suffered and is likely to further suffer stigmatic injury and loss of business opportunities, as well as immediate and irreparable harm to its goodwill, and contractual and business relationships if McHugh Fuller is not temporarily restrained, and preliminarily and permanently enjoined from maintaining their currently circulated advertisements, as described above, and from publishing future advertisements that are comparably false, fraudulent, deceptive, and misleading.

- 37. Heartland of Urbana has no adequate remedy at law with regard to McHugh Fuller's false, fraudulent, deceptive, and misleading advertisements in newspapers or other media, including online iterations of same, in this jurisdiction or elsewhere in this State.
- 38. A balancing of the equities between the parties weighs heavily in Heartland of Urbana's favor as to whether McHugh Fuller should be permitted to publish such false, fraudulent, deceptive, and misleading advertisements in newspapers and other media concerning Heartland of Urbana and Heartland of Urbana's business.
- 39. As a result of McHugh Fuller's violations of R.C. 4165.02, and pursuant to R.C. 4165.03 and Civ.R. 65, Heartland of Urbana is entitled to temporary, preliminary and permanent injunctive relief and an award of attorney's fees and such other and further relief as the Court deems just and equitable.

## COUNT TWO—DEFAMATION: LIBEL AND LIBEL PER SE

- 40. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-39.
- 41. McHugh Fuller's advertisement subjects them to liability pursuant to a cause of action for both libel and libel per se.
- 42. McHugh Fuller's advertisement is directed at Heartland of Urbana with the specific intent (a) to injure Heartland of Urbana's reputation, (b) to expose it to public hatred, contempt, ridicule, shame, and disgrace, and (c) to injure its business and trade.
- 43. The advertisement makes false aspersions against Heartland of Urbana by deliberate misstatements and misapplications of information from survey reports of the facility, which the advertisement advances as these statements were factual, and which are not privileged.

- 44. The advertisement specifically and unequivocally regards Heartland of Urbana and its facility.
- 45. McHugh Fuller's statements, made through the advertisement, are actionable in and of themselves, without regard to McHugh Fuller's intent in publishing them. The words and their effect are of such an inherently damaging nature and subject Heartland of Urbana to public hatred, contempt, and scorn.
- 46. Heartland of Urbana has suffered stigmatic and reputational harms as a further result of the advertisement, and in addition to any quantifiable damages experienced at the facility and in the community.
- 47. As a result of McHugh Fuller's libel per se, and pursuant to Civ.R. 65, Heartland of Urbana is entitled to temporary, preliminary, and permanent injunctive relief and an award of attorneys' fees and such other and further relief as the Court deems just and equitable.

## COUNT THREE—DEFAMATION: FALSE LIGHT INVASION OF PRIVACY

- 48. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-47.
- 49. McHugh Fuller's advertisement subjects them to liability pursuant to a cause of action for false light invasion of privacy, which occurs when one maliciously gives publicity to a matter concerning another that places the other before the public in a false light.
- 50. The aspersions of McHugh Fuller's advertisement are highly offensive to the reasonable person and are in fact offensive to Heartland of Urbana.
- 51. McHugh Fuller's statements, made through their advertisement, are not privileged.
- 52. McHugh Fuller knew or should have known that the statements asserted in the advertisement were false and would be offensive to Heartland of Urbana. McHugh Fuller

recklessly disregarded the truth of the existing and most recent survey reports, which were available for review by McHugh Fuller prior to the publication of their advertisement.

As a result of McHugh Fuller's false and defamatory statements, and pursuant to Civ.R. 53. 65, Heartland of Urbana is entitled to temporary, preliminary, and permanent injunctive relief and an award of attorneys' fees and such other and further relief as the Court deems just and equitable.

#### PRAYER FOR RELIEF

WHEREFORE, Heartland of Urbana OH, LLC prays for judgment against McHugh Fuller Law Group, PLLC as follows:

- That McHugh Fuller Law Group, PLLC be temporarily restrained and preliminarily Α. and permanently enjoined pursuant to Civ.R. 65, R.C. 4165.02, et seq., and Ohio common law from publishing false, fraudulent, deceptive, and misleading advertisements concerning Heartland of Urbana, including the type of advertisements contained in Exhibits A and B hereto;
- Reasonable attorneys' fees and expenses of litigation incurred by Heartland of B. Urbana in connection with this litigation;
  - C. All costs of this action; and
- Such other and further relief as the Court deems just and appropriate under the D. circumstances.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

Lary tribulation of the

By:

Robert M. Anspach (0017263) J Randall Engwert (0070746)

Charles D. Rittenhouse (0088012)

Attorneys for Plaintiff,

Heartland of Urbana OH, LLC

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# ATTENTION!

## The government has cited **HEARTLAND OF URBANA NURSING** AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was

#### **NEGLECTED** or **ABUSED**

at Heartland of Urbana, call McHugh Fuller today!

Has your loved one suffered? **Bedsores** 

**Broken Bones** 

**Unexplained Injuries** 

Death

1-800-939-5580



108 1/2 Capitol Street, Suite 300 • Charleston, West Virginia 25304 97 Elias Whiddon Road • Hattiesburg, Mississippi 39402 Michael J. Fuller, Jr.

ADVERTISING MATERIAL

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#### Urbana LYCITIZEN





What are you looking for?

## Print Advertisements For McHugh Fuller Law Group In Hattiesburg, MI

97 Elias Whiddon Road Haitlesburg MI 39402

1 Phone Number 800-939-5580



The government has cited

#### **HEARTLAND OF URBANA NURSING** AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was

## **NEGLECTED** or **ABUSED**

at Heartland of Urbana, call McHugh Fuller today!

Has your loved one suffered? **Bedsores** 

**Broken Bones** 

Unexplained Injuries

Death

1-800-939-5580



108 1/2 Capitol Street, Suite 300 · Charleston, West Virginia 25304 97 Elias Whiddon Road • Hattiesburg, Mississippi 39402 Michael J. Fuller, Jr.

ADVERTISING MATERIAL

ATTENTION! The government has cited HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER for failing to provide necessary care and Services to maintain the highest well-being of each resident. If you suspect that a loved one was NEGLECTED or ABUSED at... (more)

Advertisement run on December 13 2014

29

Dec 13, 2014 - ATTENTION! The government has clied HEARTLAND OF URBANA NURSING AND (B) (36) Urbana

Admin

Contents of Urbana Ohio Advertisements © 2014 Urbana Daily Citizen All rights reserved Business Directory Newspaper Ad, and Daily Deal software are powered by Own Local Local Hero AdForge, and Dally Deals software @ 2008-2014

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#### IN THE SUPERIOR COURT OF STEPHENS GOL STATE OF GEORGIA

2014 JUN 2 AM R 53

PRUITTHEALTH - TOCCOA, LLC;

Plaintiff,

V.

MCHUGH FULLER LAW GROUP, PLLC,

Civil Action No. 14-SU-CV-176CC

Defendant.

# ORDER GRANTING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

Plaintiff initiated this case on April 18, 2014, alleging violations of the Georgia Uniform Deceptive Trade Practices Act and the Georgia Rules of Professional Conduct stemming from Defendant having published an advertisement about Plaintiff's nursing home facility, which is known as Heritage Healthcare of Toccoa.

The Defendant is a law firm with offices in West Virginia and Mississippi. Although Defendant does not have an office in Georgia, it does have attorneys who are licensed in Georgia, including James McHugh, who testified at the hearing on this matter. Defendant's full page color advertisement first appeared in the April 17, 2014 edition of *The Toccoa Record*, the local newspaper covering Stephens County, Georgia and surrounding areas. The advertisement invites families to contact Defendant about Plaintiff's nursing home.

With its Complaint, Plaintiff filed a Motion for an Ex Parte Temporary Restraining Order and Preliminary and Permanent Injunctive Relief against Defendant, alleging that Plaintiff is threatened with irreparable harm as a result of Defendant's alleged publishing false, fraudulent, deceptive, and misleading advertisements concerning the Plaintiff in violation of the Georgia Uniform Deceptive Trade Practices Act and the Georgia Rules of Professional Conduct. On April 21, 2014, the Court issued a Temporary Restraining Order enjoining the Defendant from certain actions until a hearing could be convened.

On May 13, 2014, the parties appeared for an evidentiary hearing before this Court, at which both parties called witnesses, introduces exhibits, and made arguments regarding the appropriateness of injunctive relief. Among other things, Plaintiff introduced testimony regarding a sharp decline in admissions since the advertisement was published. After hearing all of the evidence and arguments, the Court finds that Defendant's advertisement is false and misleading and therefore violates Section 10-1-372 of the Georgia Uniform Deceptive Trade Practices Act.

The Court further finds that: (i) Plaintiff will be irreparably injured as a result of Defendant's advertisement; (ii) the balance of hardships tips decidedly in favor of Plaintiff because Defendant will not suffer significant or irreparable injury through entry of this Order; and (iii) the entry of this Order is in the public interest.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to O.C.G.A. §§ 9-11-65, 10-1-373, and 10-1-423, the Court GRANTS Plaintiff's Motion for Injunctive relief.

IT IS FURTHER ORDERED that Defendant is enjoined from publishing or causing the offending advertisement to be published in the future. In addition, within twenty (20) days from the date of this Order, Defendant shall remove or cause to be removed at its expense all electronic postings of the advertisement by The Toccoa Record, including any electronic archived versions of the SO ORDERED this 23rd day of May, 2014, nune produce the 13day of May, 2014. advertisement

The Honorable B. Chan Caudell Superior Court of Stephens County General Civil Case Final Disposition Form (Non-Domestic)

Court County STEPHENS	Date Disposed 5-13-14
Superior  □ State  Docket # 14-54-60	1-176CC MM-DD-YYYY
Reporting Party  Last First Middle I. Suffix F	Prefix Maiden Title
Name of Plaintiff/Petitioner(s)  Last Pirst Middle I Suffix Prefix Maiden  Plaintiff/Petitioner's Attorney Pro Se	Name of Defendant/Respondent(s)  Nothing hour Fully Law Group  Last Flist Middle I. Suffix Prefix Maiden  Defendant/Respondent's Attorney Pro Se
Lest First Middle I. Suffix Bar #	Last First Middle I. Suffix  Bar #
Type of Disposition (Check all that apply)  1. Pre-Trial Dismissal (Specify which type)  A. Involuntary  B. Voluntary (without prejudice)  C. Voluntary (with prejudice)  2. Pre-Trial Settlement  3. Default Judgment  4. Summary Judgment  5. Transferred/Consolidated  6. Bench Trial  7. Jury Trial (specify outcome further)  A. Dismissal after jury selected	AWARD  1. If verdict for Plaintiff, how much was awarded?  \$   Compensatory   \$   Punitive  2. If verdict on cross or counter claims, how much was awarded?  \$   Compensatory   \$   Punitive  3. Did the court modify the award?    Yes   No  4. Were atteneys fees awarded?    Yes   No
A. Dismissal after jury selected  B. Settlement during trial  C. Judgment on Verdiet  D. Directed Verdiet or INOV  1. Judgment on Verdiet. Was the verdiet:  A. For Plaintiff(s) [all]  B. For Defendant(s) [all]  C. Other: (Explain)	ADR  1. Was ADR utilized?  Yes No  2. If yes, was it (check if applicable)  court annexed?  court mandated?  3. Did the matter settle after trial for other than judgment? (If known at the time of this submission)  Yes No

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Figure 2.1. Scope and Severity Grid for Rating Nursing Home Deficiencies

	Isolated	Pattern	Widespread
Immediate Jeopardy to Resident Health or Safety	J	K	L
Actual Harm that is Not Immediate Jeopardy	G	н	1
No Actual Harm with Potential for More than Minimal Harm that is Not Immediate Jeopardy	D	E	F
No Actual Harm with Potential for Minimal Harm	A	В	C

<sup>\*</sup>A level citations not reported by CMS Source: CASPER

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If continuation sheet 1 of 18

MANGE OF PROVIDER OR SUPPLIER  HEARTLAND OF URBANA  THE WATER STREET URBANA, OH 43078  SUMMARY STATEMENT OF DESIGNATION REQUIATORY OR LSC IDENTIFYING INFORMATION)  N DOD INITIAL COMMENTS  Total Capacity: 100 Total Census: 47 County: Champaign Administrator: Katherine E. W. Will #3057 Survey Type: Annual  N 165 O.A.C. 3701-17-10 (F) Subsequent to the initial comprehensive assessment, the nursing home shall periodically reassess each resident, at minimum, every three months, unless a change in the resident's physical or mental health or cognitive abilities requires an assessment incided documentation of at least the following:  (1) Changes in medical diagnoses:  (2) Updated nutritional requirements and needs for assistance and supervision of meals; (3) Height and weight; (4) prescription and over-the counter medications; (6) A functional assessment as described in paragraph (E)(8) of this rule; (6) Any changes in the resident's psycho-social status or preferences as described in paragraph (E)(4) of this rule; and (7) Any changes in cognitive communicative or hearing abilities or mood and hebratics contents and contents and shall include and paragraph (E)(4) of this rule; and (7) Any changes in cognitive communicative or hearing abilities or mood and hebratics contents and contents and shall include and paragraph (E)(4) of this rule; and	AUD STAN ()	OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIE IDENTIFICATION NU 1325N	R/CLIA MBER:	(X2) MULT A. BUILDIN B. WING	IPLE CONSTRUCTION	(X3) DATE	M APPRO
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th Reserved under the Reserved u	Continued From pagarrived at 12:05 A.M. to the hospital.  During an interview of #55 verified the resident #45 verified the resident #46 revidementia, obstructive constipation, depressibilitation, blurred visions admitted on 02/1 secured unit. She has 55/05/10 through 05/10 clostomy and a gastification and April reveal and April reveal regular bowel movem 010 and April 2010 secumented for four displayed and Mon 03/02/10 until a 3/07/10. No bowel magain from 03/14/10 through 03/22/10, 03/2 1/03/10 through 04/06/14/10, 04/16/10 through 04/25/10 and 06/14/10, 04/	I., and the resident at an 6/22/10 at 1:00 Platent was not reassest ical record diagnosis ealed diagnoses of a hydrocephalus, sion, anxiety, asthmation, and malnutrition 6/08 and resided on direcently been hospito/10 for surgery to pric feeding tube. Retaily living) worksheet, se Aids, for the montialed that she had an ment pattern. In Marche had no bowel monays from a medium: a small size BM on lovement was document was document was document was document of 10/10, 04/10/10 through 04/10/10/10 through 04/10/10/10 through 04/10/10/10 through 04/10/10/10/10/10/10/10/10/10/10/10/10/10/	M, LPN ssed in a sreport a atrial be she the bitalized blace a view of th of ch vement size nented (20/10 10, 30/10 bowel ely. d. ords esia	N 165	DEFICIENCY	APPROPRIATE	DATE

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PRINTED: 07/07/2010 Ohio Dept Health FORM APPROVED STATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION IDENTIFICATION NUMBER: (X3) DATE SURVEY A. BUILDING COMPLETED B. WING 1325N NAME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 06/24/2010 HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (X4) ID (EACH DEFICIENCY MUST BE PRECEDED BY FULL PREFIX PROVIDER'S PLAN OF CORRECTION TAG REGULATORY OR LSC IDENTIFYING INFORMATION) PREFIX (EACH CORRECTIVE ACTION SHOULD BE (X5) COMPLETE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY N 165 Continued From page 3 N 165 related to constipation. The record was silent to any indication that Resident #46 had irregular bowel movements. There was no entry to indicate assessment of her abdomen or analysis of bowel movement pattern. Interview of the attending physician of Resident #46 on 06/22/10 at 2:30 P.M. revealed that he had only been her attending physician for about one week. He stated that he was aware of her issues with constipation because he had reviewed the record as she had history of bowel impaction. He stated he expected nurses to monitor and assess bowel movements. Interview of Registered Nurse Consultant #72 on 06/22/10 at 3:15 P.M. revealed that the facility had no written bowel protocol or policy. She stated bowel movements were recorded dally by nurse aids and tracked by the nurses. She stated that any abdominal or bowel assessment performed would be one documented in the nurses notes During further interview of Registered Nurse #72 on 06/23/10 at 10:30 A.M. she verified that no assessment of Resident #46's bowel function or pattern of constipation had been documented in the nurses notes in March or April 2010. N 184 O.A.C. 3701-17-12 (A) Notification and reporting N 184 of Changes O.A.C. 3701-17-12 (A) Notification and reporting of changes in health status, illness, injury and death of a resident. The nursing home administrator or the administrator's designee shall: (A) Immediately inform the resident, consult with the resident's physician or the medical director, if nio Department of Health

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The Baphy phy moocco	the attending physic the resident's spons representative, unle other proper authoriand local laws and results in injury and iphysician interventio (2) A significant charmental, or psychosodeterioration in health status in either life-the clinical complications (3) A need to alter treatment due to adverse a need to discontinue reatment due to adverse and any intervence and can be a patient of a hospic otifications required the responsibility of the alless otherwise indications required the responsibility of the alless oth	cian is not available, alsor or authorized so the resident object ty, in accordance with egulations when there wing the resident which has the potential for rent, and in the resident's place in the resident significantly stated in the change in the resident record. If the resident record. If the resident record. If the resident record in the resident record in the resident record in the condinate in the coordinate in the coordinate in the coordinate in the resident record in the coordinate in the co	s, and state e is: ch equiring hysical, social or uch as r to e liness, health sident I be m d f rule	N 184			

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her physician for for one week and was now hio Department of Health

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PRINTED: 07/07/2010 Ohio Dept Health FORM APPROVED STATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION IDENTIFICATION NUMBER: (X3) DATE SURVEY COMPLETED A. BUILDING B. WING 1325N NAME OF PROVIDER OR SUPPLIER 06/24/2010 STREET ADDRESS, CITY, STATE, ZIP CODE HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (X4) ID (EACH DEFICIENCY MUST BE PRECEDED BY FULL PROVIDER'S PLAN OF CORRECTION PREFIX TAG REGULATORY OR LSC IDENTIFYING INFORMATION) PREFIX (X5) COMPLETE (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY) N 184 Continued From page 6 N 184 aware of her constipation because of the history of bowel impaction. He stated he expected the nurses to monitor bowel movements and notify the physician if no bowel movements were noted for several days. N 209 O.A.C. 3701-17-14 (E) Plan of Care; Treatment N 209 and Care; Discharge O.A.C. 3701-17-14 (E) The nursing home shall assure that all residents receive adequate, kind, and considerate care and treatment at all times. This Rule is not met as evidenced by: Based on review of the clinical record, staff interview and physician interview, the facility failed to ensure residents received timely bowel management, antibiotic therapy and emergency services. This affected three (Residents #46, #23 and #26) of 11 sampled residents. Findings include: 1. Review of the clinical record diagnosis report for Resident #46 revealed diagnoses of dementia, obstructive hydrocephalus, constipation, depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was hospitalized 05/05/10 through 05/10/10 for surgery (colostomy and gastric feeding tube). Review of the ADL (activity of daily living) worksheet completed by Nurse Aids for the

month of March and April 2010 revealed the resident had a medium bowel movement (BM) on 03/02/10 and no BM until a small BM on 03/07/10

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PRINTED: 07/07/2010 Ohio Dept Health FORM APPROVED STATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY IDENTIFICATION NUMBER: A. BUILDING COMPLETED B. WING 1325N NAME OF PROVIDER OR SUPPLIER 06/24/2010 STREET ADDRESS, CITY, STATE, ZIP CODE **HEARTLAND OF URBANA** 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (X4) ID PREFIX (EACH DEFICIENCY MUST BE PRECEDED BY FULL 1D PROVIDER'S PLAN OF CORRECTION PREFIX TAG REGULATORY OR LSC IDENTIFYING INFORMATION) (EACH CORRECTIVE ACTION SHOULD BE COMPLETE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY) N 209 Continued From page 7 N 209 documented again from 03/28/10 through 04/01/10 (four days), 04/03/10 through 04/06/10 (three days), 04/10/10 through 04/14/10 (four days), 04/16/10 through 04/10/10 (four days), 04/22/10 through 04/25/10 (three days) and 04/27/10 through 04/30/10 (three days). Review of the physician orders revealed no routine medications for constipation and an order for milk of magnesia suspension 30 milliliters by mouth as needed for constipation. Review of the medication administration records revealed that the resident received no milk of magnesia during the months of March or April. Review of nurses notes for the months of March and April 2010 revealed no information related to constipation, including assessment and analysis of bowel movement patterns. The record did not include physician notification regarding lack of bowel movements. Interview of the attending physician of Resident #46 on 06/22/10 at 2:30 P.M. revealed the resident had a history of bowel impaction. He stated he expected nurses to monitor bowel movements and notify physicians if no bowel movements were noted for several days. Interview of Registered Nurse Consultant #72 on 06/22/10 at 3:15 P.M. revealed the facility had no written bowel protocol or policy. She stated that there was no standing orders for treatment of constipation. She stated that the medical directors preference was to notify the attending physicians individually if a resident had no bowel movement for three days and the physician could address each instance individually. She stated that the bowel movements were recorded daily by the nurse aids and tracked by the nurses. She

stated that any abdominal or bowel assessment

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t t n d n n n n n n n n n n n n n n n n	performed would be notes. Further interes on 06/23/10 at 10:3 assessment off Respettern of constipate nurses notes in Malwas administered of notes were silent to the lack of bowel medical care of the Justie of th	ROVIDER OR SUPPLIER AND OF URBANA  SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)  Continued From page 8 performed would be documented in the nurses notes. Further interview of Registered Nurse #72 on 06/23/10 at 10:30 A.M. revealed no assessment off Resident #46's bowel function or pattern of constipation was documented in the nurses notes in March or April 2010, no laxative was administered during that time and the nurses notes were silent to notification of the physician of the lack of bowel movements.  Review of the June 2010 physician order theet revealed Resident #26 had diagnoses which included diabetes, muscular dystrophy, isteomyelitis and chronic kidney disease. The ninimum data set (MDS) assessment dated 6/13/10 revealed the resident had no short or ong term memory impairment, had difficulty with ecisions in new situations, required extensive to that care for activities of daily living, had a purapubic urinary drainage catheter and ressure ulcers. Nursing notes dated 06/11/10 at 00 A.M. stated Resident #26 complained of cominal pain. His abdomen was distended, owel sounds were present in all four quadrants, here was no documentation that vital signs were seesed. Pain medication was given at that the sident was reassessed until nursing notes ated 06/11/10 at 11:30 P.M., which identified the sident complained of abdominal pain. The sident to complained of abdominal pain. The sident complained of abdominal pain. The resident ated he could not eat due to pain and cramping in medications were given but were not		N 209	DEFICIENCY		

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E e confirm (i	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)  Continued From page 9  During an interview on 6/22/10 at 1:00 PM, LPN #55 verified the resident was not reassessed in a timely manner and emergency care was delayed.  3. Review of physician orders for May 2010 revealed Resident #23 had diagnoses including Alzheimer's dementia and chronic lymphocytic leukemia. Review of nursing notes dated 05/02/10 at 7:45 PM revealed the physician ordered a culture of the resident's right eye due to increased drainage. Laboratory results revealed the specimen was obtained on 05/08/10 at 10:30 A.M., results were returned to the facility on 05/11/10 and Resident #23 was not started on antibiotic eye medication until 05/20/10. This was confirmed by LPN #55 on 06/22/10 at 1:00 PM.  During interview on 06/22/10 at 2:30 P.M., the Medical Director (MD) stated, unless specified otherwise, laboratory specimens should be obtained within one day of the physician order. The MD affirmed antibiotic therapy was delayed.  Based on clinical record review, staff interviews and review of facility policy, the facility failed to document adequate indication of use for an as eeded narcotic anti-anxiety medication and alled to document non-pharmacological interventions prior to administering an as needed arcotic pain medication. This affected two Residents #1 and #10) of 11 sampled residents.		N 209	DEFICIENCY			
R di	Review of the Adn 1 revealed an admis eview of the Diagno agnosis which inclu- llmonary disorder, a	ssion date of 01/18/0 sis Report revealed ded chronic obstruc	06.			1	

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HEARTL	AND OF URBANA		741 E WA	TER STREE OH 43078			
(X4) ID PREFIX TAG	ÉFIX (EACH DEFICIENCY MUST BE PRECEDED BY PU AG REGULATORY OR LSC IDENTIFYING INFORMATION		PILL	ID PREFIX TAG	PROVIDER'S PLAN OF (EACH CORRECTIVE ACT CROSS-REFERENCED TO T DEFICIENCE	TON SHOULD BE THE APPROPRIATE	(X5) COMPL DATI
	2. Review of the A #10 revealed an a- Review of the Diag diagnosis which in- delusions, hearing and history of cran dated 04/12/10 rev difficulty remember was moderately co Review of the Plan Resident #10 dated non-pharmacologic reposition, and com to administering the the Plan of Care re- medications states needs are med, and activities prior to admedication.  Review of the Medic (MAR) dated June, 01/05/10 for .5 millig Ativan - anti-anxiet rours. Further review of the Medication was adm Continued review of documentation as to been administered of the medication as to been administered of the course's notes during locumentation as to the en administered of the activities and the course's notes during locumentation as to the activities and the course's notes activities.  Review of the Medication was administered of the activities and the course's notes activities.  Review of the Medication was administered of the activities and the course of the course o	as to what ical interventions had ing the medication.  Admission Record for dmission date of 01/0 gnosis Record revealed cluded dementia with loss, brain cancer, epiotomy. Review of the realed Resident #10 hering short term memorganitively impaired.  To Care regarding particularly impaired of Care regarding particularly impaired of Care regarding particularly impaired.  To Care regarding particularly impaired of care regarding particularly im	Resident 3/09. ad bilepsy, se MDS ad ries and in for tivities, ried prior eview of to go to nxiety  Record for dated epam ry six ed the in June. On had ew of the no had resident toled the lied	N 209			

ND PLAN	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIE IDENTIFICATION NUM	R/GLIA MBER:	(X2) MULTII A. BUJLDING B. WING	PLE CONSTRUCTION G	(X3) DATE SURVEY COMPLETED	
AME OF	PROVIDER OR SUPPLIER		STREET ADI	DRESS, CITY S	TATE, ZIP CODE	06/2	24/2010
IEART	LAND OF URBANA		741 E WA	TER STREE OH 43078			
(X4) ID PREFIX TAG	(EACH DEFICIENCY MUST BE PRECEDED BY FULL		FIRE	PREFIX TAG	PROVIDER'S PLAN OF (EACH CORRECTIVE ACT CROSS-REFERENCED TO T DEFICIENC	ION SHOULD BE HE APPROPRIATE	(X5) COMPLE DATE
	non-pharmacologic prior to administeri In an interview on (Registered Nurse (were to document medications were abehaviors the resid non-pharmacologic prior to administeri further verified then any behaviors or no interventions tried pabove medications Review of the facilit administration dated Documentation included manually and subspensions, or both, eannually, written pol applicability and imprights under sections Revised Code, the regarding the rights, procedure establishethis section. The ad	cal interventions had bing the medication.  06/22/10 at 1:40 P.M., (R.N.) #65 stated the revery time why any produministered, including lent demonstrated and all interventions were ing the medication. RNe was no documentation-pharmacological prior to administering the for both of these resided 03/2010 revealed Studed unusual observations are under division of residents, the establish and review at icles regarding the elementation of resides 3721.10 to 3721.17 responsibilities of resident and the home's grieved under division (A)(2 ministrator is respons and adherence to	nurses n g what d what tried N #65 ion of he dents. dication aggested ations or least ents' of the idents /ance	N 209	DEFIÇIENC	7)	

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AND PLAN	NT OF DEFICIENCIES I OF CORRECTION	(X1) PROVIDER/SUPP IDENTIFICATION I	NUMBER:	A BUILDIN B. WING		(X3) DATE COMPI	SURVEY LETED
	PROVIDER OR SUPPLIER				STATE, ZIP CODE	1 001	772010
IEARTI	LAND OF URBANA			ATÉR STREE , OH 43078	T		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIE (EACH DEFICIENCY MUST BE PRECEDE REGULATORY OR LSC IDENTIFYING INFO		SV PIIII	ID PREFIX TAG	PROVIDER'S PLAN OF C (EACH CORRECTIVE ACTIV CROSS-REFERENCED TO TH DEFICIENCY	ON SHOULD BE LE APPROPRIATE	(X6) COMPLET DATE
	This Rule is not me Based on review of procedures for Abu Misappropriation of and interview, the facility policy for Abu Misappropriation of was implemented to thoroughly investig reported to the State 24 hours. This affer	let as evidenced by: If the facility policy a lise, Neglect and If Patient Property P Ifacility failed to ensure that incide ated and that allegate agency immediate cted two (#13, #15) reported incidents (\$ If y policy and proced If Misappropriation of If y policy and proced	revention, are that the revention ents were tions were ely, within of five SRI)  ure for a f Patient evealed on the to be free se by lity staff, erving the error entertal evention or must proceeds. Or ted to ordinator evey and stated	N 404			

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Onio	ept Health					10111	APPROVI
STATEMEI AND PLAN	NT OF DEFICIENCIÉS OF CORRECTION	(X1) PROVIDER/SUPPLIDENTIFICATION N	IER/CLIA UMBER:	(X2) MULTIF A. BUILDING B. WING	PLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED	
NAME OF	PROVIDER OR SUPPLIER		STREET AL	DRESS, CITY, S	TATE, ZIP CODE	007.	24/2010
HEARTL	AND OF URBANA		741 E W	ATER STREE , OH 43078			
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCE Y MUST BE PRECEDED BY LSC IDENTIFYING INFORM	Y FILL:	ID PREFIX TAG	PROVIDER'S PLAN OF (EACH CORRECTIVE ACT CROSS-REFERENCED TO T DEFICIENC	ION SHOULD BE HE APPROPRIATE	(X5) COMPLET DATE
	1. Review of the factorial of a resident.  1. Review of the Coon 06/24/10 at 1:45 investigation could that the staff witness interview and without be identified. She was the staff members of a resident.  2. Review of the factorial of a resident.  3. Review of the factorial of a resident.  4. Review of the factorial of a resident.  5. Review of the factorial of a resident.  6. Review of the factorial of a resident.  7. Review of the factorial of a resident.  8. Review of the factorial of a resident.  8. Review of the factorial of a resident.  9. Review of the factorial of a resident.  11/06/09 which was on 11/09/09 revealed overheard yelling at was witnessed by the STNA. The employ investigation was considered of the Compone of t	acility reported incide that a staff member reported overhearing STNA) #75 cursing at ort dated 09/25/09 incwas suspended and led that the resident reation. The investigation of P.M. revealed that the not be located. She as was not identified but the investigation overified the facility codent was unaware of fied the definition of vertice the definition	State Resident dicated an was attion was lurse #72 the verified for ould not nclusion any verbal dure did licated ed by the ate y action val abuse at of e agency s incident an the ployee	N 404			

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STATEME AND PLAI	NOF CORRECTION	(X1) PROVIDER/SUPPLIE IDENTIFICATION NU	R/CLIA	(X2) MULTI	PLE CONSTRUCTION	(X3) DATE	SURVEY
		IOENTII ICATION NO	MBEK!	A. BUILDIN		COMPLETED	
	Marin - Marin	1325N		B MING _		061	04/2040
NAME OF	PROVIDER OR SUPPLIER		STREET AD	DRESS, CITY, S	STATE, ZIP CODE	Udi	24/2010
HEART	LAND OF URBANA			TER STREE OH 43078	Т		
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY LSC IDENTIFYING INFORMA	FULL	ID PREFIX TAG	PROVIDER'S PLAN OF (EACH CORRECTIVE ACT CROSS-REFERENCED TO T DEFICIENCE	ION SHOULD BE HE APPROPRIATE	(X5) COMPLETE DATE
N 404	Continued From pa	age 15		N 404		.,	
	Agency on 11/09/0 state agency on 11 had been terminate that STNA #75 had incident of verbal a according to incide Agency by the facili indicated that anoth witnessed and repo She verified that the did not reflect that the	as reported to the Sta 9. The final report se /13/09 indicated that is ed on 11/20/09. She is been named in an all buse of a resident on ints reported to the Sta ity. She verified that the ner STNA (unidentified orted the previous inci- e personnel file of STI the incident had occur in could not be located	nt to the STNA#75 /erified leged .09/21/09 ate he report d) had dent. NA #75				
	R.C. 3721.13(A)(2) physical, verbal, me and to be treated at	RIGHTS OF RESIDE The right to be free lental, and emotional at all times with courtes cognition of dignity and	from abuse	N 411			
	procedures for Abus Misappropriation of I personnel file review	the facility policy and	cility				

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If continuation sheet 17 of 18

AND PLAN	INT OF DEFICIENCIES NOF CORRECTION	(X1) PROVIDER/SUPPLI IDENTIFICATION NO	ER/CLIA JMBER:	A. BUILDIN	PLE CONSTRUCTION	(X3) DATE	M APPROV SURVEY LETED
NAME OF	PROVIDER OR SUPPLIER	1325N		B. WING			
			STREET A	DRESS, CITY, S	STATE, ZIP CODE	06/	24/2010
-	AND OF URBANA		URBANA	WATER STREET NA, OH 43078			
(X4) ID PREFIX TAG		TEMENT OF DEFICIENCIE MUST BE PRECEDED BY SC IDENTIFYING INFORMA	S	ID PREFIX TAG	PROVIDER'S PLAN OF C (EACH CORRECTIVE ACT) CROSS-REFERENCED TO TO	ON SHOULD BE	(X5) COMPLET
In or in the state ab no final and act	minded i form pag	All dated 09/21/10 reventified) reported over Aid (STNA) #75 cursinal report dated 09/2 was suspended and the resident was uninvestigation was not investigation was not of 08/04/09. The 90 ind of 08/04/09 through the received a need on for organization abording to the job desired that she received /23/09 for failing to for put a resident to be lity and 09/24/09 for it needs were met are fore rounds with the reference of the facility conclusives the facility conclusives unaware of any the definition of verball of the facility conclusion and procedure to be aware and that incident was with second of the facility conclusion of the facili	rhearing sing at 25/09 an naware of day igh ds and cription. I collow ed failing at last e #72 ified d not ission e did the issed of the seed of the s	N 411	DEFICIENCY	PROPRIATE )	DATE

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AND PLAN	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLII	ER/CLIA JMBER;	(X2) MULTI A. BUILDIN	PLE CONSTRUCTION	(X3) DATE	M APPROV
MAME	ODA:	1325N		B. WING_		->	
	PROVIDER OR SUPPLIER		STREET AL	DORESS CITY S	STATE, ZIP CODE	06/	24/2010
-	AND OF URBANA		/41 E W/	ATER STREE , OH 43078	T CODE		10
(X4) ID PREFIX TAG	SUMMARY STA (EACH DEFICIENCY REGULATORY OR L	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY SC IDENTIFYING INFORMA	S	ID PREFIX TAG	PROVIDER'S PLAN OF ( (EACH CORRECTIVE ACT) CROSS-REFERENCED TO THE		(X5)
Rea Ab Properties of the pattern of	Continued From pa  2. Review of the SF STNA #75 was over #15. The incident w nurse and an STNA suspended, the inve- the employee was te interview with Corpor on 06/24/10 at 1:45 F nvestigation conclud occurred. She verified review in an alleged resident on 09/21/0 reported to the State of exported to the facility points, Neglect and Miles previous incident, exported to the facility points, Neglect and Miles previous the facility points, Neglect and Miles exported to the facility points, Neglect and Miles previous of the facility points, Neglect and Miles exported to the facility points, Neglect and Miles previous of the facility points, Neglect and Miles previous fine of STNA cident had occurred full not be located for exist not be subjected in light patient has the right points, staff of other a lient, family members viduals. Verbal abuse viduals. Verbal abuse	ge 17 RI dated 11/06/09 revibeard yelling at Residual Witnessed by the control of the employee was stigation was complete minated.  The employee was stigation was completed the incident had the facility tincident of verbal about the incident of the incident of the incident witnessed and report of the incident of the investigation of the incident of the investigation of Patieted 04/21/06 revealed that the investi	ealed dent charge ted and e #72 lility d been puse of ints . She er ported hat the ation for tient d; ad		CROSS-REFERENCED TO THE DEFICIENCY	ON SHOULD BE	COMPLETE
Re Ab Pro ea mu inc pat pat indi writ disp	eview of the facility pouse, Neglect and Mi operty Prevention da ch patient has the rig est not be subjected luding but not limited ients, staff of other a ient, family members viduals. Verbal abu- ten or gestured lang	olicy and procedure fisappropriation of Pat sted 04/21/06 revealed that to be free from an an abuse by anyone, if to facility staff, other agencies serving the serving the serving that the serving the serving that the serving the serving that the serving that the serving	d: d: d: d				
rega		earing distance, ability to comprehend					

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937-653-6817

HEARTLAND/URBANA

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) PLAN OF	DF DEFICIENCIES CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 365365	A BUIL		(X3) DATE COMF	OMB NO. 0938-038 (X3) DATE SURVEY COMPLETED	
ME OF PRO	OVIDER OR SUPPLIER	1		STREET ADDRESS, CITY, STATE, ZIP (		24/2010	
-	ND OF URBANA			741 E WATER STREET URBANA, OH 43078	CODE		
4) ID EFIX AG	*CACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF C (EACH GORRECTIVE ACTIC CROSS-REFERENCED TO TH DEFICIENCY)	N SHOULD BE E APPROPRIATE	(X5) COMPLETION DATE	
African Africa	ENSUS: 47 EDICARE: 05 EDICARE: 05 EDICAID: 30 EHER: 12 E following deficie and survey complete and the resident involving the and has the pot vention; a significal, mental, or perioration in health as in either life three all complications) ficantly (i.e., a nearly in a decision of the and complete and comp	KATHERINE E. W. WILL APACITY: 85  Incies are based on the leted 06/24/10. BY OF CHANGES	F 157	Heartland of Urbana ha continue to be in substate compliance with 42 CF. Subpart B. Heartland of or will have substantially the alleged deficiencies substantial compliance to specified herein.  This Plan of Correction Heartland of Urbana alleged deficiencies cited alleged deficiencies cited.	s and will ntial R Part 483 Urbana has y corrected and achieved by the date  constitutes gation of uch that the i have been ugust 3,  his plan are lo not with the n. To stantial d Federal Urbana has in this	8/3/10	

lency statement ending with an asterisk (\*) denotes a deficiency which the institution may be excused from correcting providing it is determined that iguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days the date of survey whather or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 wing the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued

ENT	ERS FOR MEDICAL  NT OF DEFICIENCIES	RE & MEDICAID SERVICES			OMB NO	M APPROVE 0. 0938-038
PLAN	OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	A. BUIL	JLTIPLE CONSTRUCTION DING	(X3) DATE SURV COMPLETED	
		365365	B. WING	3	06/3	24/2010
	PROVIDER OR SUPPLIER		3	STREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078		-4/2010
4) ID EFIX AG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	I SHOULD BE	(XS) COMPLETION DATE
157	specified in §483, resident rights und regulations as specifies section.  The facility must rethe address and philegal representative	the facility must record and periodically update the address and phone number of the resident's gal representative or interested family member. This REQUIREMENT is not met as evidenced the seed on review of the clinical record and systematical interview, the facility failed to notify the systematical when a resident had no bowel overment for three or more days on multiple casions over a two month period. This affected the (Resident #46) of 11 sampled residents.		Resident #46 received a abdominal assessment an record has been updated same. Resident #46 suffe effects from a lack of boy movements every three d said resident continues to medications to manage be function.	nd clinical to reflect the red no ill wel ays. This receive	0
	by; Based on review of physician interview, physician when a re movement for three occasions over a twi			Like Residents received a abdominal assessment and clinical record has been up reflect the same by the ADNS/Deisignee. Physic notified for bowel manage measures if indicated by the ADNS/Designee.	d their pdated to ian was ement	
cc cc cc cc cc cc cc cc cc cc cc cc cc	Resident #46 revealed by tructive hydrocep lepression, anxiety, alurred vision, and mospitalized 05/05/10 urgery (colostomy a deview of the ADL (a worksheet completed booth of March and wisident had a medium 3/02/10 and no BM in the days). No bowel ocumented again from 1/01/10 (four days), note days), 04/16/10 through the procession of the days), 04/16/10 through the days and the days and the days and the days are days and the days and the days and the days are days are days and the days are days and the days are days are days are days and the days are days are days are days are days are days and the days are days are days are days and the days are days ar	asthma, atrial fibrillation, alnutrition. She was through 05/10/10 for ad gastric feeding tube). ctivity of daily living) by Nurse Aids for the April 2010 revealed the movement (BM) on until a small BM on 03/07/10		Nursing Staff will be inser abdominal assessment, prodocumentation for recording bowel movements, provided laxatives, and proper notificate Physician for a lack of movements exceeding threather ADNS and or designed before 8/3/2010.  BM audit tool will be compared threather as week for 4 with the ADNS/Designee.	oper ong of ong PRN ocation to bowel ocation by on or	

ENT	ERS FOR MEDICAR	TH AND HUMAN SERVICES E & MEDICAID SERVICES				M APPROVE <u>0, 0</u> 938-039
	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER;		NULTIPLE CONSTRUCTION LDING	(X3) DATE	
		365365	B. WIN	IG	06/	24/2010
	PROVIDER OR SUPPLIER			STREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078		
X4) ID REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFI TAG	PROVIDER'S PLAN OF COR (EACH CORRECTIVE ACTION GROSS-REFERENCED TO THE / DEFICIENCY)	SHOULD BE	(X5) COMPLETION DATE
F 157	Continued From page 2 04/27/10 through 04/30/10 (three days). Review of the physician orders revealed no routine medications for constipation and an order for milk of magnesia suspension 30 milliliters by mouth as needed for constipation. Review of the medication administration records revealed that the resident received no milk of magnesia during the months of March or April.		F1	The quality assessment a assurance (QAA) commi validate the actions taken effectively resolving the and verify the dates of co	ttee will are cited issues	
	and April 2010 reve constipation. The re	otes for the months of March aled no information related to ecord did not include n regarding lack of bowel				
223 A	#46 on 06/22/10 at 2 physician for for one her constipation becompaction. He stated monitor bowel move physician if no bowe several days.  483.13(b), 483.13(b) ABUSE/INVOLUNTA	movements were noted for (1)(i) FREE FROM ARY SECLUSION right to be free from verbal, mental abuse, corporal	F 22	F 223 Free From Abuse/Involunt Seclusion The facility will continue to ensu that Residents are free from verba abuse.		8/3/10
ii T b	or physical abuse, co nvoluntary seclusion	is not met as evidenced se facility policy and		Resident #13 received a the investigation to ensure the said resident. Conclusions investigation do not supposindications of verbal abuse	safety of of the ort	
10		i			- 1	

MS-2567(02-99) Previous Versions Obsolete

Event ID: 508T11

Facility ID: OH00448

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	VT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/GLIA (DENTIFICATION NUMBER, 365365	(X2) MUL A. BUILD B WING	TIPLE CONSTRUCTION ING	(X3) DATE COMPI	
	PROVIDER OR SUPPLIER	300380	re	-	06/24/2010	
I) IO EFIX AG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRE (EACH CORRECTIVE ACTION SH CROSS-REFERENCED TO THE AP- DEFICIENCY)	OULD BE	COMPLETIC DATE
Free 11 in or	personnel file revier falled to ensure response. This affects abuse. This affects five residents with a with allegations of virial substances. The staff member (unide State Tested Nurse Resident #13. The sindicated STNA #75 investigation revealed a hire date evaluation for the person evaluation indicates and the staff witness with the staff witness witness with the staff witness witness witness witness with the staff witness	Patient Property Prevention, wand interview, the facility idents were free from verbaled two (Residents #13, #15) of self reported incidents (SRI)	F 223	Residents with allegations will have a thorough invest completed with timely report the appropriate agencies with indicated immediately by the Administrator and ADNS expenses on F 223 and completion of thorough investigation by Consultant and or designee before 8/3/2010.  Staff will be inserviced on Rights and Abuse, Neglect, Misappropriation of Fund, a Nurses will be inserviced or documentation guidelines by ADNS and or designee on o 8/3/2010.  Abuse Audit Tool will be consultant and assurance (QAA) committee validate the actions taken an effectively resolving the citicand verify the dates of complete and verify the da	rigation orting to then the ducated fa clinical on or Residents and and proper y the or before orducted the e will reed issues	

CENT	ERS FOR MEDICAR	TH AND HUMAN SERVICES  RE & MEDICAID SERVICES			FOR	D: 07/07/20 M APPROVE O: 0938-039
	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MUI T  A. BUILDIN  B. WING	IPLE CONSTRUCTION IG	(X3) DATE	
ME OF	PROVIDER OR SUPPLIER	365365	1			24/2010
	AND OF URBANA		7.	REET ADDRESS, CITY, STATE, ZIP CO 41 E <b>WATE</b> R ST <b>REET</b> I <b>RBANA, OH 43078</b>	DE	
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF COR (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE A DEFICIENCY)	SHOULD BE	(X5) COMPLETION DATE
	situation. She verification and require the resident report indicate and reported by and verified the personnindicate additional action related to the abuse of a resident.  2. Review of the SESTNA #75 was over The incident was with and an STNA. The incident was with and an STNA. The incident was terminated an employee was terminated an employee was terminated and the investigation concluded an employee in an alleged a resident on 09/21/0 eported to the State rerified that the report of STNA (unidentified) in the previous incident ersonnel file of STNA recident had occurred ould not be located to the state of the state ould not be located to the state of the state ould not be located to the state of the state ould not be located to the state of the state	fied the definition of verbal the policy and procedure did dent to be aware and that the d the incident was witnessed other staff member. She led file of STNA #75 did not lebuse education or disciplinary 09/21/09 allegation of verbal  All dated 11/06/09 revealed theard yelling at Resident #15 lessed by the charge nurse employee was suspended, scompleted and the mated.  The Registered Nurse #72  P.M. revealed the facility led the incident had and that STNA #75 had been d incident of verbal abuse of 19 according to incidents Agency by the facility. She t indicated that another had witnessed and reported She verified that the A #75 did not reflect that the land that the investigation for review.	F 223			
A P e: m in	buse, Neglect and No roperty Prevention de ach patient has the roust not be subjected cluding but not limite	oolicy and procedure for fisappropriation of Patient ated 04/21/06 revealed: ight to be free from and I to abuse by anyone, ad to facility staff, other agencies serving the rs, friends, or other		499 j		

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		H AND HUMAN SERVICES E & MEDICAID SERVICES .			FOR	D: 07/07/2010 M APPROVED D: 0938-0391
ATEME	OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA (DENTIFICATION NUMBER:	(X2) M A, BUII B. WIN	-	(X3) DATE COMPI	SURVEY
WE OF	PROVIDER OR SUPPLIER	.1		STREET ADDRESS, CITY, STATE, ZIP		
EART	AND OF URBANA	-		741 E WATER STREET URBANA, OH 43078		
(X4) ID 'REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	PREFI) TAG	PROVIDER'S PLAN OF ( (EACH CORRECTIVE ACT) CROSS-REFERENCED TO T DEFICIENCY	ION SHOULD BE HE APPROPRIATE	COMPLETION DATE
F 223	individuals. Verbal written or gestured disparaging and de the families, or with regardless of their a disability. 483.13(c)(1)(ii)-(iii),	abuse was defined as oral, language that willfully included rogatory terms to patients or in hearing distance, age, ability to comprehend, or (c)(2) - (4)	F 22	25 F 225 Investigate/Repo		8/3/10
	INVESTIGATE/REF ALLEGATIONS/IND The facility must no been found guilty of mistreating resident thad a finding entere registry concerning of residents or misa and report any know	t employ individuals who have abusing, neglecting, or as by a court of law; or have ad into the State nurse aide abuse, neglect, mistreatment appropriation of their property; viedge it has of actions by a		Allegations/Individuals The facility will contin that allegations of verb thoroughly investigated to state survey and cert agencies within 5 days indicated.	ue to ensure al abuse are d and reported ification	
	indicate unfitness for other facility staff to or licensing authoritic The facility must ensinvolving mistreatme including injuries of misappropriation of immediately to the atto other officials in a through established State survey and cereather officials.	sure that all alleged violations ent, neglect, or abuse, unknown source and resident property are reported dministrator of the facility and coordance with State law procedures (including to the riffication agency).		Resident #13 received a investigation to ensure said resident. Conclusion investigation do not superindications of verbal about Residents with allegat will receive a thorough and reported timely to the Administrator/designation of the Administrator and reported timely to the Administrator designation.	the safety of ons of the opport ouse.  ions of abuse investigation the opport of the o	
-   ·   ·   ·   ·   ·   ·   ·   ·   ·	violations are thoroup prevent further poter investigation is in pro The results of all inve to the administrator of	ogress. estigations must be reported		Administrator and ADN on F 225 by Clinical Co or designee on or before	onsultant and	

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Event ID: 50BT11

If continuation sheet Page 6 of 23

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ATEME 3 PLAN	NT OF DEFICIENCIES I OF CORRECTION	(X1) PROVIDER/SUPPLIËR/CLIA IDENTIFICATION NUMBER: 365365	(X2) ML A. BUIL B, WING		OMB NO. 0938-039 (X3) DATE SURVEY COMPLETED	
	PROVIDER OR SUPPLIER			STREET ADDRESS, CITY, STATE, ZIP COD 741 E WATER STREET URBANA, OH 43078		24/2010
X4) JD REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORR (EACH CORRECTIVE ACTION S CROSS-REFERENCED TO THE AF DEFICIENCY)	HOULD BE 1	COMPLETION DATE
Free CT Cd	with State law (incle certification agency incident, and if the appropriate correct.  This REQUIREMENT by: Based on review of procedures for Abust Misappropriation of and interview, the facility allegation of verbal investigated. This affive residents with Sinvolving allegations.  Findings include: Review of the SRI damember (unidentified Tested Nurse Aid (SResident #13. The findicated STNA #75 investigation revealed for review.  Review of the personal evaluation for the pe	uding to the State survey and // within 5 working days of the alleged violation is verified ive action must be taken.  NT is not met as evidenced the facility policy and se, Neglect and Patient Property Prevention, acility failed to ensure that an abuse was thoroughly iffected one (Resident #13) of self Reported Incidents (SRI)	F 22	Staff will be inserviced on Rights and Abuse, Neglect Misappropriation of Fund, Nurses will be inserviced of documentation guidelines a reporting by the ADNS and designee on or before 8/3/2.  Abuse Audit tool will be convectly x 4 weeks by the Administrator/Designee.  The quality assessment and assurance (QAA) committe validate the actions taken at effectively resolving the citiand verify the dates of company.	e will  e d issues	

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X1,+

		RE & MEDICAID SERVICES		The state of the s		M APPROVE D. 0938-039
	IT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 365365	(X2) MULTIPLE CONSTRUCTION  A. BUILDING  B. WING		(X3) DATE SURVEY COMPLETED  06/24/2010	
QF F	PROVIDER OR SUPPLIER		5	TREET ADDRESS, CITY, STATE, ZIP C		2412010
RTL	AND OF URBANA		- 10	741 E WATER STREET URBANA, OH 43078	002	
) ID FIX G	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTIO CROSS-REFERENCED TO THE DEFICIENCY)	N SHOULD BE	(X5) COMPLETION DATE
	to be sure that resi round care provide oncoming shift. Interview of the Co on 06/24/10 at 1:45 investigation could	dent needs were met and last d before rounds with the rporate Registered Nurse #72 P.M. revealed that the not be located. She verified	F 225			
f a FAP prima a control with a contr	that the staff witnes interview and witho be identified. She vistated that the residuation. She verifiabuse according to not require the residual report indicated and reported by and refried the personnedicate additional a	ut the investigation could not verified the facility conclusion fent was unaware of any led the definition of verbal the policy and procedure did lent to be aware and that the did the incident was witnessed of the staff member. She lef file of STNA #75 did not buse education or disciplinary 09/21/09 altegation of verbal				
	Abuse, Neglect and Property Prevention, age six, that each prom and must not be invone, including but the patients, staff catient, family member dividuals. Verbal a ritten or gestured lasparaging and denote the patient of the start of the	Misappropriation of Patient dated 04/21/06, revealed on patient has the right to be free a subjected to abuse by the not limited to facility staff, of other agencies serving the ters, friends, or other buse was defined as oral, inguage that willfully included agatory terms to patients or the patients of distance.			i	
re di ha in po	sability. Page 10 in ave evidence that al vestigated and mus otential abuse while	e, ability to comprehend, or dicated the facility must allegations are thoroughly to prevent any further the investigation proceeds.		to construct above		

		TH AND HUMAN SERVICES RE & MEDICAID SERVICES			FORM	0: 07/07/2010 APPROVED
TEMEN	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/GLIA IDENTIFICATION NUMBER:  365365	(X2) MU A. EUIL B. WING	Victim State	OMB NO. 0938-039: (X3) DATE SURVEY COMPLETED  06/24/2010	
ME OF	PROVIDER OR SUPPLIER		1	BTREET ADDRESS, CITY, STATE, ZIP CODE		4/2010
EARTL	AND OF URBANA			741 E WATER STREET URBANA, OH 43078		
X4) ID REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORR (EACH CORRECTIVE ACTION SI CROSS-REFERENCED TO THE AP DEFICIENCY)	HOULD BE	(X5) COMPLETION DATE
225	the supervisor and and to other official certification agence	abuse prevention coordinator its (including state survey and it) in accordance with stated 24 hours after discovery of the	F 22			8/2/7.4
3S=D	ABUSE/NEGLECT The facility must de policies and proced mistreatment, negle and misappropriation. This REQUIREMENT by: Based on review of procedures for Abustina propriation of and interview, the facility policy for Abustina po	evelop and implement written ures that prohibit act, and abuse of residents on of resident property.  IT is not met as evidenced the facility policy and se, Neglect and Patient Property Prevention, will failed to ensure that the use, Neglect and	r 22	Develop/Implement/abuse/ETC Policies The facility will continue to that the facility policy for R Rights and Abuse, Neglect, Misappropriation of patient implement to ensure that incare thoroughly investigated allegations are reported to stagencies immediately, within hours.	ensure esidents and funds are cidents and that	8/3/10
t r 2	was implemented to horoughly investigate reported to the State 24 hours. This affec	Patient Property Prevention ensure that incidents were ted and that allegations were agency immediately, within ted two (#13, #15) of five eported incidents (SRI) of verbal abuse.		Resident #13 received a thor investigation to ensure the sa said resident. Conclusions of investigation do not support indications of verbal abuse.	afety of f the	
F A P p fr a	whose, Neglect and Property Prevention, age six, that each prom and must not be nyone, including but ther patients, staff of	policy and procedure for Misappropriation of Patient dated 04/21/06, revealed on atient has the right to be free e subjected to abuse by t not limited to facility staff, of other agencies serving the ers, friends, or other	×	Resident #15 received a the investigation to ensure the said resident.  Residents with allegations will receive a thorough investigation and reported timely to the appropriate agencies immediate Administrator/Designed	of abuse estigation	

#\$-2567(02-99) Previous Versions Obsolete

Event ID: 50BT11

Facility ID: OH00448

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	RE & MEDICAID SERVICES	-		OMB NO	M APPROVED. 0938-039
ATEMENT OF DEFICIENCIES DPI AN OF CORRECTION	(X1) PROVIDER/SUPPLIER/GLIA IDENTIFICATION NUMBER; 365365	A. BUIL B, WIN	- I mile	(X3) DATE COMP	SURVEY LETED
ME OF PROVIDER OR SUPPLIE	The state of the s				24/2010
EARTLAND OF URBANA			STREET ADDRESS, CITY, STATE, ZIP C 741 E WATER STREET URBANA, OH 43078	ODE	
TAG REGULATORY OF	STATEMENT OF DEFICIENCIES ICY MUST BE PRECEDED BY FULL R LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	V SHOULD BE	(X5) COMPLETION DATE
written or gesture disparaging and of the families, or wir regardless of their disability. Page 11 have evidence that investigated and in potential abuse with The allegation must the supervisor and and to other official certification agencial, not to exceed incident.  1. Review of the factory of the facto	al abuse was defined as oral, discovery terms to patients or thin hearing distance, age, ability to comprehend, or discovery the facility must all allegations are thoroughly must prevent any further abuse prevention coordinator is (including state survey and y) in accordance with stated 24 hours after discovery of the accility reported incident of that a staff member apported overhearing State TNA) #75 cursing at Resident and that the resident was attended and an edithat the resident was attended that the resident was attended that the investigation was ded for review.  P.M. revealed that the action could not be located. She verified the facility conclusion and the definition of verbal the policy and procedure did the policy and procedure did	F 22	The same of the sa	on Residents on Residents on Residents oct, and d, and d on proper s and timely nd or 6/2010 completed id tee will are ited issues	

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Event ID: 50BT11

Facility ID: OH00448

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TEMEN PLAN	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER;	A. BUIL	***	(X3) DATE SURVEY COMPLETED	
IE OF I	PROVIDER OR SUPPLIER	365365	1	110	06/	24/2010
ARTL	AND OF URBANA			STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET URBANA, OH 43078		
4) ID EFIX AG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SCIDENTIFYING INFORMATION)	JD PREFIX TAG	PROVIDER'S PLAN OF CORREC (EACH CORRECTIVE ACTION SHO CROSS-REFERENCED TO THE APP DEFICIENCY)	OUI DIRE	COMPLETION DATE
226	1		F 22	16		
	additional abuse ed	NA #75 did not indicate ducation or disciplinary action /09 allegation of verbal abuse	*			
	11/06/09 which was on 11/09/09 reveals overheard yelling at was witnessed by the STNA. The employ	cility reported incident of reported to the state agency at that STNA #75 was Resident #15. The incident se charge nurse and an ee was suspended, the impleted and the employee				-2
i i	on 06/24/10 at 1:45 investigation concluded in 11/06/09 and was Agency on 11/09/09 state agency on 11/1 and been terminated that STNA #75 had become a builded about a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of verbal about 1:45 had become a builded in the state of t	Porate Registered Nurse #72 P.M. revealed that the facility ded the incident had occurred is reported to the State The final report sent to the 3/09 indicated that STNA#75 on 11/20/09. She verified been named in an alleged use of a resident on 09/21/09 is reported to the State				
ir w S d tr re 2 4: D A	Agency by the facility indicated that another vitnessed and report the verified that the lid not reflect that the nat the investigation eview.  83.20, 483.20(b) CO.SSESSMENTS  he facility must conditional that the investigation eview.	She verified that the report r STNA (unidentified) had ed the previous incident, personnel file of STNA #75 incident had occurred and could not be located for DMPREHENSIVE	F 272	F 272 Comprehensive Asses The facility will continue to comprehensive assessment for change in condition and bow function.  Residents # 46and # 26 receives thorough abdominal assessment	ensure or el .	8/3/10

ATEMENT OF D PLAN OF C	DEFICIENCIES ORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION  A. BUILDING  B. WING		(X3) DATE SURVEY COMPLETED	
	/IDER OR SUPPLIER			STREET ADDRESS, CITY, STATE, ZIP CO		24/2010
EARILAN	OF URBANA	. 10		URBANA, OH 43078		
(4) ID REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF COR (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	SHOULD BE	(X5) COMPLETIO DATE
A fi assispe inclide Cus Cog Cor Visi Moo Psy Phy Con Dise Den Skir Med Spec Doc the a resid Doc This by: Base facilifi asse funct #46)  Findin 1. Reference The Psy Phy Base funct Psy	sessment of a re- ecified by the Sta- lude at least the ntification and de- stomary routine; gnitive patterns; munication; ion; od and behavior chosocial well-b- sical functioning atinence; ease diagnosis a stal and nutritional conditions; vity pursuit; lications; cial treatments a charge potential; umentation of su additional assess dent assessment umentation of pa  REQUIREMENT ed on record revi ty failed to enusy ssed for change ion. This affects of 11 sampled re  and included; eview of the June aled Resident #2	e a comprehensive sident's needs, using the RAI ate. The assessment must following: emographic information;  patterns; eing; and structural problems; and health conditions; at status;  and procedures; ammary information regarding sment performed through the trotocols; and articipation in assessment.  It is not met as evidenced ew and staff interview, the e assessess residents were en condition and bowel and two (Residents #26 and	F 27	1	t # 46 and # from a lack ry three s continue manage  t though d their pdated to an was ement the  rviced on ng, for ments, and Physician he ADNS ore	

	EALTH AND HUMAN SERVICES CARE & MEDICAID SERVICES			FOR	D: 07/07/201 MAPPROVE D: 0938-039
ATEMENT OF DEFICIENCIE D FLAN OF CORRECTION		A. BUIL	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING		SURVEY LETED
ME OF PROVIDER OR SUP	PLIER		STREET ADDRESS, CITY, STATE, ZIP (		24/2010
EARTLAND OF URBA	NA		741 E WATER STREET URBANA, OH 43078	ODE	
REFIX (EACH DEFI	RY STATEMENT OF DEFICIENCIES DIENCY MUST BE PRÉCEDED BY FULL Y OR LSC IDENTIFYING INFORMATION)	: ID - PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	N SHOULD BE E APPROPRIATE	(X5) COMPLETION DATE
minimumm da 05/13/10 reveal long term men decisions in net total care for a suprapubic urin pressure ulcers 5:00 A.M. state abdominal pain Bowel sounds There was no classessed. Pain time. There was resident was redated 06/11/10 resident complaresident's abdorded, and warm to three time large stated he could Pain medication effective. The pi P.M. and ordere emergency room arrived at 12:05 to the hospital.	and chronic kidney disease. The ta set (MDS) assessment dated aled the resident had no short or nory impairment, had difficulty with the situations, required extensive to ctivities of daily living, had a nary drainage cathetere and a Nursing notes dated 06/11/10 at difficulty with the difficulty	F.27	The quality assessment assurance (QAA) commodidate the actions take effectively resolving the and verify the dates of commodities.	nittee will en are e cited issues	
#55 verified the timely manner.  2. Review of the for Resident #46 obstructive hydro.	ew on 6/22/10 at 1:00 PM, LPN resident was not reassessed in a clinical record diagnosis report revealed diagnoses of dementia, ecephalus, constipation,				
blurred vision, ar	ety, asthma, atrial fibrillation, id malnutrition. She was 6/08 and resided on the secured	.i.			

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		H AND HUMAN SERVICES  E & MEDICAID SERVICES:			FORM	); 07/07/201 APPROVE ): 0938-039
ATEMEN	IT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIF	PLE CONSTRUCTION	(X3) DATE 8	SURVEY
		365365	B. WING	-	06/3	24/2010
ME OF	PROVIDER OR SUPPLIER	711		EET ADDRESS, CITY, STATE, ZIP COL		
EARTL	AND OF URBANA			1 E WATER STREET RBANA, OH 43078		
(X4) ID PREFIX TAG	(EACH DEFICIENC)	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF COR (EACH CORRECTIVE ACTION : CROSS-REFERENCED TO THE A DEFICIENCY)	SHOULD BE	(X5) COMPLETION DATE
F 272	Continued From pa	ge 13	F 272	*******		
	through 05/10/10 fo and a gastric feeding	ntly been hospitalized 05/05/10 or surgery to place a colostomy og tube. Review of the ADL	- 1			
	the Nurse Aids, for revealed that she had	ng) worksheet, completed by the month of March and April ad an irregular bowel				
	she had no bowel n	In March 2010 and April 2010 novement documented for four a size BM on 03/02/10 until a				-
	small size BM on 03 was documented as 03/16/10, 03/20/10 through 04/01/10, 0 04/10/10 through 04	8/07/10. No bowel movement sain from 03/14/10 through through 03/22/10, 03/28/10 4/03/10 through 04/06/10, /14/10, 04/16/10 through		1		
	through 04/30/10. Frevealed no bowel no ordered routinely. Remedication orders re magnesia suspension	rough 04/25/10 and 04/27/10 Review of the physician orders hedications (laxatives) were eview of the as needed evealed an order for milk of an 30 milliliters by mouth as the medication administration			¥	
- 1	records revealed tha	t she received no milk of months of March or April.				
	March and April 2010 elated to constipation	o notes for the months of O revealed no information on. The record was silent to esident #46 had irregular				
i i	owel movements.	There was no entry to of her abdomen or analysis			,	
# 	46 on 06/22/10 at 2 ad only been her at	ding physician of Resident 30 P.M. revealed that he ending physician for about that he was aware of her ion because he had		- ** 4-000 - 1000 F 11-	e e	
r	eviewed the record a	as she had history of bowel he expected nurses to				

1. The delication of the first of the first

	INT OF DEFICIENCIES	(X1) PROVIDER/SUPPLIER/CLIA	(X2) BAULT		IB NO. 0938-039 DATE SURVEY	
	OF CORRECTION	IDENTIFICATION NUMBER:	A. BUILDI	(***)	COMPLETED	
		365365	B. WING_	06/24/2010		
ME OF	PROVIDER OR SUPPLIER	1 1910 4.4.1		REET ADDRESS, CITY, STATE, ZIP CODE	7472 112410	
EART	LAND OF URBANA		- 1	741 E WATER STREET JRBANA, OH 43078		
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BI CROSS-REFERENCED TO THE APPROPRIA DEFICIENCY)	E COMPLETION TE DATE	
F 272			F 272	- 10000	-	
	monitor and asses	s bowel movements.			3	
	Interview of Registe	ered Nurse Consultant #72 on				
		M. revealed that the facility el protocol or policy. She	. 3			
	stated bowel move	ments were recorded daily by				
	nurse aids and trac	ked by the nurses. She stated or bowel assessment	-			
		on bower assessment on the		45		
	nurses notes.			* L= 1		
	on 06/23/10 at 10:3	view of Registered Nurse #72 0 A.M. she verified that no ident #46's bowel function or				
		on had been documented in	İ			
200	the nurses notes in	March or April 2010.			8/3/10	
	HIGHEST WELL BE	ARE/SERVICES FOR	F 309	F309 Provide Care/Services for		
				Highest Well Being The facility will continue to ensure	e	
	provide the necessa	receive and the facility must ry care and services to attain		residents receive timely bowel		
	or maintain the high- mental, and psychos	est practicable physical,		movements, antibiotic therapy and emergency treatment.		
	and plan of care.	Comprehensive assessment		Residents # 46and # 26 received a		
.				though abdominal assessment and	ĺ	
1				clinical record has been updated to		
	This REQUIREMEN' by:	T is not met as evidenced		reflect the same. Resident # 46 and		
	Based on review of t	he clinical record, staff	- 1	26 suffered no ill effects from a lac of bowel movements every three	ck	
		an interview, the facility failed eceived timely bowel	-	days. These said residents continue		
		tic therapy and emergency		to receive medications to manage		
	<mark>services.</mark> This affect and #26) of 11 samp	ed three (Residents #46, #23 led residents		bowel function.		
1	Findings include:					

man and an interest of the second second of

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		H AND HUMAN SERVICES  E & MEDICAID SERVICES				APPROVED . 0938-0391
TEMEN	T OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	A. BUILD	TIPLE CONSTRUCTION	(X3) DATE S COMPLI	URVEY ETED
	PROVIDER OR SUPPLIER	363363	1	TREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078		4/2010
X4) ID REFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DÉFICIENCY)	SHOULD BE	(X5) COMPLETION DATE
	for Resident #46 re obstructive hydroce depression, anxiety blurred vision, and hospitalized 05/05/surgery (colostomy Review of the ADL worksheet complete month of March and resident had a med 03/02/10 and no BM (five days). No bow documented again to 04/01/10 (four days) (three days), 04/10/days), 04/16/10 through 04/04/27/10 through 04/04/27/	inical record diagnosis report vealed diagnoses of dementia, aphalus, constipation, asthma, atrial fibrillation, mainutrition. She was 10 through 05/10/10 for and gastric feeding tube). (activity of daily living) and by Nurse Aids for the diagnose Aids for the diagnosis of the	F 309	Resident # 23 suffered a from receiving ordered a on dates received.  Facility audit of orders a services will be completed before 8/3/2010 by the ADNS/Designee.  Like Resident received a abdominal assessment are clinical record has been a reflect the same. Physicianotified for bowel managemeasures if indicated by ADNS/Designee.  Nursing Staff will be inseproper abdominal assess documentation guideline recording of bowel move proper notification to the for condition change, and obtaining/treating of labor orders by the ADNS and on or before 8/3/2010.  Abdominal Assessment/A Audit will be completed to a week for 4 weeks by the ADNS/Designee.	though their updated to an was gement the erviced on ing, s for ements, Physician I timely or designee	

CMS-2567(02-99) Previous Versions Obsolete

Event ID: 508T11

Facility ID: OH00448

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		"H AND HUMAN SERVICES RE & MEDICAID SERVICES			FOR	D: 07/07/2010 M APPROVED O: 0938-0391
ATEMEN	IT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MU A. BUILI B. WING	Thysliss	(X3) DATE	-
ME 05 !	TO CHARLES OF THE PARTY OF	365365		71 101.1		24/2010
	PROVIDER OR SUPPLIER		5	STREET ADDRESS, CITY, STATE, Z 741 E WATER STREET URBANA, OH 43078	IP CODE	
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF (EACH CORRECTIVE AC CROSS-REFERENCED TO DEFICIEN	TION SHOULD BE THE APPROPRIATE	(X8) COMPLETION DATE
	movements were r Interview of Registr 06/22/10 at 3:15 P, written bowel proto there was no stand constipation. She s directors preference physicians individual movement for three address each instal that the bowel move the nurse aids and it stated that any abde performed would be notes. Further inter on 06/23/10 at 10:3/ assessment off Res battern of constipationurses notes in Mar was administered di	ared Nurse Consultant #72 on M. revealed the facility had no col or policy. She stated that ing orders for treatment of stated that the medical e was to notify the attending ally if a resident had no bowel adays and the physician could not individually. She stated ements were recorded daily by tracked by the nurses. She ominal or bowel assessment a documented in the nurses view of Registered Nurse #72 D.A.M. revealed no ident #46's bowel function or on was documented in the ch or April 2010, no laxative uring that time and the nurses notification of the physician of	F 30	The quality assessment assurance (QAA) convalidate the actions tale offectively resolving the and verify the dates of	imittee will ken are he cited issues	
2 n itt o n O lc d tc s p 5 a B	P. Review of the Julevealed Resident # noluded diabetes, mateomyelitis and chainimum data set (No.5/13/10 revealed thoughtern memory in ecisions in new situal care for activitie uprapubic urinary diressure ulcers. Nurico A.M. stated Resideminal pain. His owel sounds were presented to the control of the co	ne 2010 physician order sheet 26 had diagnoses which				
to s p 5 a B	otal care for activitie uprapubic urinary di ressure ulcers. Nui :00 A M. stated Res bdominal pain. His owel sounds were p	s of daily living, had a rainage catheter and rainage catheter and raing notes dated 06/11/10 at sident #26 complained of abdomen was distended. oresent in all four quadrants lentation that vital signs were	Fac	cility ID: OH00448	If continuation sheet F	age 17 o

CENTERS FOR MEDICARE & MEDICAID SERVICES  ATEMENT OF DEFICIENCIES  DELAN OF CORRECTION  (X1) PROVIDER/SUPPLIER/CLIA  IDENTIFICATION NUMBER:			(X2) M	ULTIPLE CONSTRUCTION		OMB NO. 0938-039 (X3) DATE SURVEY	
D PLAN OF CORRECTION IDENTIFICATION NUMBER:		A. BUIL	LDING	ÇOMPI	LETED		
365365			B. WIN	G	06/	06/24/2010	
ME OF	PROVIDER OR SUPPLIER	A SERVICE STREET, SERVICE STRE		STREET ADDRESS, CITY, STATE, ZIP CO			
EARTI	AND OF URBANA			741 E WATER STREET URBANA, OH 43078			
(X4) ID PREFIX TAG			ID PREFIX TAG	PROVIDER'S PLAN OF COI (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	SHOULD BE	COMPLETION DATE	
F 309	Continued From na	ne 17	F 30	ng i	•	1	
. 603	Continued From page 17 assessed. Pain medication was given at that time. There was no documentation that the resident was reassessed until nursing notes dated 06/11/10 at 11:30 P.M., which identified the resident complained of abdominal pain. The resident's abdomen was distended, hard, firm, red, and warm to touch. His abdomen appeared three time larger than normal. The resident stated he could not eat due to pain and cramping. Pain medications were given but were not effective. The physician was notified at 11:30 P.M. and ordered the resident sent to the emergency room. The ambulance was called, arrived at 12:05 A.M., and the resident admitted to the hospital.		F 34	09	7		
						\$ .	
	#55 verified the resid	on 6/22/10 at 1:00 PM, LPN dent was not reassessed in a mergency care was delayed.					
	revealed Resident #3 Alzheimer's dementi leukemia. Review of 05/02/10 at 7:45 PM	ian orders for May 2010 23 had diagnoses including a and chronic lymphocytic f nursing notes dated revealed the physician					
	increased drainage. the specimen was ob A.M., results were re	the resident's right eye due to Laboratory results revealed btained on 05/08/10 at 10:30 turned to the facility on ht #23 was not started on					
i	antibiotic eye medica	tion until 05/20/10. This was 5 on 06/22/10 at 1:00 PM.				\$	
- 6	Medical Director (MD otherwise, laboratory obtained within one d	6/22/10 at 2:30 P.M., the  i) stated, unless specified specimens should be lay of the physician order. ibiotic therapy was delayed.					
		biotic therapy was delayed.	F 32	9			

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06/28/2011 16:18 937-653-6817 HEARTLAND/URBANA PAGE 37/41

PRINTED: 07/07/2010 DEPARTMENT OF HEALTH AND HUMAN SERVICES FORM APPROVED ENTERS FOR MEDICARE & MEDICAID SERVICES OMB NO. 0938-0391 (X3) DATE SURVEY COMPLETED ATEMENT OF DEFICIENCIES (X2) MULTIPLE CONSTRUCTION (X1) PROVIDER/SUPPLIER/CLIA D FLAN OF CORRECTION IDENTIFICATION NUMBER: A. BUILDING B. WING 365365 06/24/2010 ME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET EARTLAND OF URBANA URBANA, OH 43078 PROVIDER'S PLAN OF CORRECTION (X4) ID SUMMARY STATEMENT OF DEFICIENCIES (X5) COMPLETION (EACH CORRECTIVE ACTION SHOULD BE (EACH DEFICIENCY MUST BE PRECEDED BY FULL PREFIX REFIX CROSS-REFERENCED TO THE APPROPRIATE REGULATORY OR LSC IDENTIFYING INFORMATION) TAG TAG DEFICIENCY) F 329 Continued From page 18 F 329 F 329 Drug Regimen is free from 8/3/10 UNNECESSARY DRUGS SS=D Unnecessary Drugs The facility will continue to Each resident's drug regimen must be free from document adequate indication for use unnecessary drugs. An unnecessary drug is any of PRN ant anxiety medications and drug when used in excessive dose (including duplicate therapy); or for excessive duration, or non-pharmacological interventions without adequate monitoring; or without adequate prior to the administration of PRN indications for its use; or in the presence of pain medication adverse consequences which indicate the dose should be reduced or discontinued; or any Resident #1 and # 10 suffered no illcombinations of the reasons above. effects from receiving physician Based on a comprehensive assessment of a ordered medications. resident, the facility must ensure that residents Residents receiving PRN who have not used antipsychotic drugs are not medications have been reviewed for given these drugs unless antipsychotic drug appropriate documentation of therapy is necessary to treat a specific condition as diagnosed and documented in the clinical indication for use of PRN record; and residents who use antipsychotic medications as well as nondrugs receive gradual dose reductions, and pharmacological interventions to be behavioral interventions, unless clinically provided prior to administration of contraindicated, in an effort to discontinue these PRN medications by the drugs. ADNS/designee. Nurses will be inserviced on proper documentation of indications of use and non-pharmacological This REQUIREMENT is not met as evidenced interventions prior to the Based on clinical record review, staff interviews administration of PRN medications and review of facility policy, the facility failed to by the ADNS or designee on or document adequate indication of use for an as before 8/3/2010 needed narcotic anti-anxiety medication and failed to document non-pharmacological interventions prior to administering an as needed

3MS-2567(02-99) Previous Versions Obsolete

narcotic pain medication. This affected two (Residents #1 and #10) of 11 sampled residents.

Event ID: 50BT11

Facility ID: OH00448

If continuation sheet Page 19 of 23

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ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA DENTIFICATION NUMBER:		(X2) Mt A. BUIL	JILTIPLE CONSTRUCTION DING	(X3) DATE S	OMB NO. 0938-039 (X3) DATE SURVEY COMPLETED	
365365			B. WIN	G	06/2	4/2010
	PROVIDER OR SUPPLIEF			STREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078		
4) ID EFIX AG	(EACH DEFICIEN	TATEMENT OF DEFICIENCIES BY MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	SHOULD BE	(X5) COMPLETION DATE
	#1 revealed an ad Review of the Diag diagnosis which in pulmonary disorde schizophrenia, psy pressure, congesti and obesity. Revie (MDS) assessmen Resident #1 had di	Admission Record for Resident mission date of 01/18/06. Inosis Report revealed cluded chronic obstructive r, anxiety, diabetes, dementia, chosis, elevated blood we heart failure, depression ew of the Minimum Data Set t dated 04/22/10 revealed fficulty remembering short and s and was moderately	F 32	Psychotropic Medication be completed 3 time's poweeks by the ADNS/des  The quality assessment a assurance (QAA) committee validate the actions taken effectively resolving the and verify the dates of committee validates.	er week for 4 signee, and ittee will n are cited issues	
Frida a a a R(I o a a a a a a a a a a a a a a a a a a	Resident #1 dated non-pharmacologic included: redirect vocamination Review anti-anxiety medical stimuland offer soft musicand	of Care regarding pain for 03/25/10 stated al interventions for pain with television; reposition; offer to administering the pain of Plan of Care regarding tion state to monitor mood, are met, offer to decrease allus by offering to close blinds, are to be tried prior to atti-anxiety medication.			-	
	Review of the Medic MAR) for June, 201 nilligrams (mg) of A inti-anxiety medical inght hours. Further the medication had in June. Continued to documentation as een administered of turse's notes during ocumentation as to	cation Administration Record 0 revealed an order for .25 Iprazolam (Xanax - ion) as needed (prn) every review of the MAR revealed been administered 18 times review of the MAR revealed is to why the medication had in these dates. Review of the this period revealed no why the medication had r what behaviors the resident		*		

ENER LAN	IT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION A. BUILDING					OMB NO. 0938-03 (X3) DATE SURVEY COMPLETED	
365365			B. WING					06/24/2010	
	PROVIDER OR SUPPLIÈR			741	T ADDRESS E WATER S BANA, OH		E, ZJP COD		
ID FIX G	(EACH DEFICIENC) REGULATORY OR L	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFI TAG		(EACH	VIDER'S PLA CORRECTIVI EFERENCED DEFIC	E ACTION 9	ECTION HOULD BE PROPRIATE	COMPLETIO DATE
29	was exhibiting.		F 3	329		98.	. 1		
	revealed an order d hydrocodone/APAP analgesic) every six severe pain. Reviev medication was adm no documentation a	5-500 (Vicodin - narcotic hours prn for moderate to v of the MAR revealed the ninistered 11 times June with s to what							
# F C C C C C C C C C C C C C C C C C C	f10 revealed an adm Review of the Diagno fiagnosis which include lelusions, hearing lound and history of craniot ated 04/12/10 revea	ss, brain cancer, epilepsy, omy. Review of the MDS led Resident #10 had g short term memories and							
R no re to the m ne ac	esident #10 dated 0 on-pharmacological position, and comfo administering the p e Plan of Care rega edications states me eds are med, and e	interventions of activities, rt foods are to be tried prior ain medication. Review of		3			4		
(M 01. (At ho	AR) dated June, 20 /05/10 for .5 milligra tivan - anti-anxiety m urs. Further review	ion Administration Record 10 revealed an order dated ms (mg.) of Lorazepam nedication) prn every six of the MAR revealed the istered nine times in June.				• Senseu			

ATEME	NT OF DEFICIENCIES	(X1) PROVIDER/SUPPLIER/CLIA	(X2) M	IULTIPLE CONSTRUCTION		O. 0938-039
IDENTIFICATION NUMBER:			LDING	(X3) DATE	(X3) DATE SURVEY COMPLETED	
		B. WIN	IG	0.00		
ME OF PROVIDER OR SUPPLIER				STREET ADDRESS, CITY, STATE, ZIP CO		24/2010
EARTI	LAND OF URBANA			741 E WATER STREET URBANA, OH 43078	DE.	
X4) ID REFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)		ID PREFIX TAG	PROVIDER'S PLAN OF COI (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	SHOULDE	(X5) COMPLETION DATE
329	Continued From pa	age 21	F 3	29		1
-	Continued review of documentation as to been administered nurse's notes durin documentation as to	of the MAR revealed no to why the medication had on these dates. Review of the good this period revealed no why the medication had or what behaviors the resident				
	was exhibiting. Rev Vicodin was admini- no documentation a	riew of the MAR revealed the stered 15 times in June with s to what all interventions had been tried	7	N.F		-
in a Fa D Co 4: Se fa of The by	Registered Nurse (Filter to document expensions were acceptable for particular to administering urther verified there any behaviors or non atterventions tried probove medications for eview of the facility administration dated cocumentation includes any services to meet the recility is responsible for the services.	or to administering the or both of these residents. policy regarding medication 03/2010 revealed Suggested led unusual observations or equent interventions.	F 502	F 502 Provide/Obtain Lab Services-Quality/Timely The facility will continue to laboratory orders in a time as per facility guidelines.  Resident # 23 laboratory or obtained and this said residence received Physician ordered treatment.	o obtain ly manner	8/3/10

'ATEME ID PLAN	ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:		A. BUILL		OMB NO. 0938-03 (X3) DATE SURVEY COMPLETED			
365365			B WING		06/24/2010			
ME OF PROVIDER OR SUPPLIER EARTLAND OF URBANA				STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET URBANA, OH 43078				
(4) ID REFIX AG	(EACH DEFICIENC)	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY PULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF COR.  (EACH CORRECTIVE ACTION ( CROSS-REFERENCED TO THE A DEFICIENCY)	CTION SHOULD BE COMPLET  O THE APPROPRIATE DATE			
	Findings included;  Review of physician Resident #23 had di Alzheimer's dement leukemia. Review o 05/02/10 at 7:45 PM ordered a culture of increased drainage. the specimen was ol A.M., results were re05/11/10 and Reside antibiotic eye medical confirmed by LPN #50 During interview on 0 Medical Director states otherwise, laboratory	the facility failed to timely ervices for Resident #23.  orders for May 2010 revealed agnoses including is and chronic lymphocytic for nursing notes dated revealed the physician the resident's right eye due to Laboratory results revealed orained on 05/08/10 at 10:30 atturned to the facility on ent #23 was not started on office until 05/20/10. This was 55 on 06/22/10 at 1:00 PM.  6/22/10 at 2:30 P.M., the ed, unless specified specimens should be ay of the physician order.	F 502	The facility will conduct a orders for laboratory services and treatment on 8/3/2010 by the ADNS/De Nursing Staff will be inserviced by the ADNS/De obtaining timely laborator notification to the Physicist timely treatment by the AD or designee on or before 8 Lab Audit Tool will be conthree times a week x 1 mo ADNS/Designee.  The quality assessment and assurance (QAA) will validactions taken are effectively resolving the cited issues at the dates of completion.	ces to coratory or before esignee exiced on y services, an and DNS and /3/2010 empleted on the by the date the y			

(130th General Assembly) (Substitute House Bill Number 290)

## **AN ACT**

To amend sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 and to enact sections 1901.028, 1907.04, 2301.04, 2501.20, and 3313.791 of the Revised Code regarding the use of school district premises by members of the public and immunity from civil liability for a school district and schools when permitting members of the public to use school premises, regarding the use of results of an inspection of a nursing home or the results of a Medicare or Medicaid survey of a nursing facility in an advertisement, regarding the continued orderly operation of the courts in case of a disaster, civil disorder. or other extraordinary circumstance, and regarding the limitation of claims arising out of skilled nursing care or personal care services provided in a home.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 be amended and sections 1901.028, 1907.04, 2301.04, 2501.20, and 3313.791 of the Revised Code be enacted to read as follows:

Sec. 1901.028. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a municipal court within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws,

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cancels, or rescinds the order.

(B) The authority of an administrative judge of a municipal court to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a municipal court operates in a temporary location pursuant to division (A) of this section, the court shall continue to have the territorial jurisdiction set forth in section 1901.02 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the municipal court shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.

(E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of the following shall occur:

(1) The administrative judge of the municipal court shall provide notice by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location

of the court, including the site of the permanent location and the date on which operations shall commence at the permanent location.

Sec. 1907.04. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a county court within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a county court to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a county court operates in a temporary location pursuant to division (A) of this section, the court shall continue to have the territorial jurisdiction set forth in section 1907.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the county court shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.
- (E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of

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the following shall occur:

(1) The administrative judge of the county court shall provide notice by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

(2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location of the court, including the site of the permanent location and the date on which operations shall commence at the permanent location.

Sec. 2301.04. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a division of a court of common pleas within the territorial jurisdiction of the division, the administrative judge of the division may issue an order authorizing the division to operate at a temporary location inside or outside the territorial jurisdiction of the division. The order shall identify the temporary location at which the division shall operate and the date on which operations shall commence at the temporary location. The division shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a division of a court of common pleas to issue an order authorizing the division to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a division of a court of common pleas operates in a temporary location pursuant to division (A) of this section, the division shall continue to have the territorial jurisdiction set forth in section 2301.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the division were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the division of the court of common pleas shall provide notice and a copy of the order by regular or electronic mail to all of the following:

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- (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the division operates and maintains a web site, the web site shall provide notification of the operation of the division at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.
- (E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of the following shall occur:
- (1) The administrative judge of the division of the court of common pleas shall provide notice by regular or electronic mail to all of the following:
  - (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court:
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the division operates and maintains a web site, the web site shall provide notification of the operation of the division at the permanent location of the division, including the site of the permanent location and the date on which operations shall commence at the permanent location.

Sec. 2305.113. (A) Except as otherwise provided in this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action accrued.

- (B)(1) If prior to the expiration of the one-year period specified in division (A) of this section, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so given.
- (2) An insurance company shall not consider the existence or nonexistence of a written notice described in division (B)(1) of this section in setting the liability insurance premium rates that the company may charge the company's insured person who is notified by that written notice.

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- (C) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in division (D) of this section, both of the following apply:
- (1) No action upon a medical, dental, optometric, or chiropractic claim shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim.
- (2) If an action upon a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim, then, any action upon that claim is barred.
- (D)(1) If a person making a medical claim, dental claim, optometric claim, or chiropractic claim, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in the exercise of reasonable care and diligence, discovers the injury resulting from that act or omission before the expiration of the four-year period specified in division (C)(1) of this section, the person may commence an action upon the claim not later than one year after the person discovers the injury resulting from that act or omission.
- (2) If the alleged basis of a medical claim, dental claim, optometric claim, or chiropractic claim is the occurrence of an act or omission that involves a foreign object that is left in the body of the person making the claim, the person may commence an action upon the claim not later than one year after the person discovered the foreign object or not later than one year after the person, with reasonable care and diligence, should have discovered the foreign object.
- (3) A person who commences an action upon a medical claim, dental claim, optometric claim, or chiropractic claim under the circumstances described in division (D)(1) or (2) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in division (D)(1) of this section or within the one-year period described in division (D)(2) of this section, whichever is applicable.
  - (E) As used in this section:
- (1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those that are owned or

operated by the state, political subdivisions, any person, any corporation, or any combination of the state, political subdivisions, persons, and corporations. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or

osteopathic medicine and surgery in this state.

- (3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, hospital, home, or residential facility, against any employee or agent of a physician, podiatrist, hospital, home, or residential facility, or against a licensed practical nurse, registered nurse, advanced practice registered nurse, physical therapist, physician assistant, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes the following:
- (a) Derivative claims for relief that arise from the <u>plan of care</u>, medical diagnosis, eare, or treatment of a person;
- (b) Claims that arise out of the <u>plan of care</u>, medical diagnosis, eare, or treatment of any person and to which either of the following applies:
  - (i) The claim results from acts or omissions in providing medical care.
- (ii) The claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.
- (c) Claims that arise out of the <u>plan of care</u>, medical diagnosis, eare, or treatment of any person and that are brought under section 3721.17 of the Revised Code;
- (d) Claims that arise out of skilled nursing care or personal care services provided in a home pursuant to the plan of care, medical diagnosis, or treatment.
- (4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.
- (5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.
- (6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that

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arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

- (7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:
- (a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse;
- (b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.
- (8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the board of nursing.
- (9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.
- (10) "Chiropractor" means any person who is licensed to practice chiropractic by the state chiropractic board.
- (11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.
- (12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.
  - (13) "Physical therapist" means any person who is licensed to practice

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physical therapy under Chapter 4755. of the Revised Code.

- (14) "Home" has the same meaning as in section 3721.10 of the Revised Code.
- (15) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code.
- (16) "Advanced practice registered nurse" means any certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.
- (17) "Licensed practical nurse" means any person who is licensed to practice nursing as a licensed practical nurse by the board of nursing pursuant to Chapter 4723. of the Revised Code.
- (18) "Physician assistant" means any person who holds a valid certificate to practice issued pursuant to Chapter 4730. of the Revised Code.
- (19) "Emergency medical technician-basic," "emergency medical technician-intermediate," and "emergency medical technician-paramedic" means any person who is certified under Chapter 4765. of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, whichever is applicable.

(20) "Skilled nursing care" and "personal care services" have the same meanings as in section 3721.01 of the Revised Code.

Sec. 2501.20. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a court of appeals within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a court of appeals to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a court of appeals operates in a temporary location pursuant to division (A) of this section, the court shall

continue to have the territorial jurisdiction set forth in section 2501.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the court of appeals shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court:

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.
- (E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of the following shall occur:
- (1) The administrative judge of the court of appeals shall provide notice by regular or electronic mail to all of the following:
  - (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court:
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location of the court, including the site of the permanent location and the date on which operations shall commence at the permanent location.
- Sec. 2901.12. (A) The trial of a criminal case in this state shall be held in a court having jurisdiction of the subject matter, and, except in cases of emergency under section 1901.028, 1907.04, 2301.04, or 2501.20 of the Revised Code, in the territory of which the offense or any element of the offense was committed.
- (B) When the offense or any element of the offense was committed in an aircraft, motor vehicle, train, watercraft, or other vehicle, in transit, and it

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cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in any jurisdiction through which the aircraft, motor vehicle, train, watercraft, or other vehicle passed.

- (C) When the offense involved the unlawful taking or receiving of property or the unlawful taking or enticing of another, the offender may be tried in any jurisdiction from which or into which the property or victim was taken, received, or enticed.
- (D) When the offense is conspiracy, attempt, or complicity cognizable under division (A)(2) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the conspiracy, attempt, complicity, or any of its elements occurred. If an offense resulted outside this state from the conspiracy, attempt, or complicity, that resulting offense also may be tried in any jurisdiction in which the conspiracy, attempt, complicity, or any of the elements of the conspiracy, attempt, or complicity occurred.
- (E) When the offense is conspiracy or attempt cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the offense that was the object of the conspiracy or attempt, or any element of that offense, was intended to or could have taken place. When the offense is complicity cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the principal offender may be tried.
- (F) When an offense is considered to have been committed in this state while the offender was out of this state, and the jurisdiction in this state in which the offense or any material element of the offense was committed is not reasonably ascertainable, the offender may be tried in any jurisdiction in which the offense or element reasonably could have been committed.
- (G) When it appears beyond a reasonable doubt that an offense or any element of an offense was committed in any of two or more jurisdictions, but it cannot reasonably be determined in which jurisdiction the offense or element was committed, the offender may be tried in any of those jurisdictions.
- (H) When an offender, as part of a course of criminal conduct, commits offenses in different jurisdictions, the offender may be tried for all of those offenses in any jurisdiction in which one of those offenses or any element of one of those offenses occurred. Without limitation on the evidence that may be used to establish the course of criminal conduct, any of the following is prima-facie evidence of a course of criminal conduct:
- (1) The offenses involved the same victim, or victims of the same type or from the same group.

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- (2) The offenses were committed by the offender in the offender's same employment, or capacity, or relationship to another.
- (3) The offenses were committed as part of the same transaction or chain of events, or in furtherance of the same purpose or objective.
  - (4) The offenses were committed in furtherance of the same conspiracy.
  - (5) The offenses involved the same or a similar modus operandi.
- (6) The offenses were committed along the offender's line of travel in this state, regardless of the offender's point of origin or destination.
- (I)(1) When the offense involves a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, the offender may be tried in any jurisdiction containing any location of the computer, computer system, or computer network of the victim of the offense, in any jurisdiction from which or into which, as part of the offense, any writing, data, or image is disseminated or transmitted by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, or in any jurisdiction in which the alleged offender commits any activity that is an essential part of the offense.
- (2) As used in this section, "computer," "computer system," "computer network," "information service," "telecommunication," "telecommunications device," "telecommunications service," "data," and "writing" have the same meanings as in section 2913.01 of the Revised Code.
- (J) When the offense involves the death of a person, and it cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in the jurisdiction in which the dead person's body or any part of the dead person's body was found.
- (K) Notwithstanding any other requirement for the place of trial, venue may be changed, upon motion of the prosecution, the defense, or the court, to any court having jurisdiction of the subject matter outside the county in which trial otherwise would be held, when it appears that a fair and impartial trial cannot be held in the jurisdiction in which trial otherwise would be held, or when it appears that trial should be held in another jurisdiction for the convenience of the parties and in the interests of justice.
- Sec. 3313.75. (A) For purposes of this section, "school premises" has the same meaning as in section 3313.77 of the Revised Code.
- (B) The board of education of a city, exempted village, or local school district may authorize the opening of schoolhouses school premises for any lawful purposes.
  - (B)(C) In accordance with this section and section 3313.77 of the

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Revised Code, a district board may rent or lease facilities school premises under its control to any public or nonpublic institution of higher education for the institution's use in providing evening and summer classes.

(C)(D) This section does not authorize a board to rent or lease a schoolhouse school premises when such rental or lease interferes with the public schools in such district, or for any purpose other than is authorized by law.

Sec. 3313.76. Upon application of any responsible organization, or of a group of at least seven citizens, all school grounds and schoolhouses premises, as that term is defined in section 3313.77 of the Revised Code, as well as all other buildings under the supervision and control of the state, or buildings maintained by taxation under the laws of this state, shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population, and for the discussion of all topics tending to the development of personal character and of civil welfare, and for religious exercises. Such occupation should not seriously infringe upon the original and necessary uses of such properties. The public officials in charge of such buildings shall prescribe such rules and regulations for their occupancy and use as will secure a fair, reasonable, and impartial use of the same.

Sec. 3313.77. (A) For purposes of this section:

- (1) "General public" means members of the community, including both of the following:
  - (a) Students during nonschool hours;
- (b) Employees of a school or school district when not working in the scope of their employment.
  - (2) "Nonschool hours" means both of the following:
- (a) Any time prior to and after regular classroom instruction on a day that school is in session;
- (b) Any day that school is not in session, including weekends, holidays, and vacation breaks.
- (3) "Recreational meetings and entertainments" means all indoor or outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure.
- (4) "School premises" means all indoor and outdoor structures, facilities, and land owned, rented, or leased by a school or school district.
- (B) The board of education of any city, exempted village, or local school district shall, upon request and the payment of a reasonable fee, subject to such regulation as is adopted by such board, permit the use of any school house and rooms therein and the grounds and other property under its

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eontrol premises, when not in actual use for school purposes, for any of the following purposes:

(A)(1) Giving instructions in any branch of education, learning, or the arts;

(B)(2) Holding educational, religious, civic, social, or recreational meetings and entertainments, and for such other purposes as promote the welfare of the community; provided such meetings and entertainments shall be nonexclusive and open to the general public;

(C)(3) Public library purposes, as a station for a public library, or as reading rooms;

(D)(4) Polling places, for holding elections and for the registration of

voters, or for holding grange or similar meetings.

Within sixty days after the effective date of this section, the <u>The</u> board of education of each school district shall adopt a policy for the use of school facilities premises by the general public, including a list of all fees to be paid for the use of such facilities premises and the costs used to determine such fees. Once adopted, the policy shall remain in effect until formally amended by the board. A copy of the policy shall be made available to any resident of the district upon request.

Sec. 3313.78. Upon application of a committee representing any candidate for public office or any regularly organized or recognized political party, the board of education having control of any school grounds premises mentioned in section 3313.76 of the Revised Code, shall permit the same to be used as a place wherein to hold meetings of electors for the discussion of public questions and issues. No such meeting shall be held during regular school hours. No charge shall be made for such use, but the candidate or committee so holding a meeting shall be responsible for any damage done or expense incurred by reason thereof.

Sec. 3313.791. (A) For purposes of this section:

- (1) "School" means a school in a city, local, or exempted village school district.
- (2) "School district" means a city, local, or exempted village school district.
- (3) "School premises" has the same meaning as in section 3313.77 of the Revised Code.
- (B) Except as otherwise provided in division (C) of this section, a school or school district, a member of a school district board of education, or a school district or school employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the use of school premises under section 3313.75, 3313.76, 3313.77, or

3313.78 of the Revised Code, unless the injury, death, or loss to person or property results from willful or wanton misconduct by the school or school district, a member of the school district board of education, or an employee of the school district or of any school in the district.

This section does not eliminate, limit, or reduce any other immunity or defense that a school or school district, member of a school district board of education, or school district or school employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

(C) A school or school district, a member of a school district board of education, or a school district or school employee is not immune from liability in damages in a civil action as provided under division (B) of this section if the board of education of the city, exempted village, or local school district charges a fee for the use of school premises that significantly exceeds the costs incurred for the operation of the school premises.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B)(1) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

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- (2)(a) If, prior to issuance of a license, a home submits a request for an expedited licensing inspection and the request is submitted in a manner and form approved by the director, the director shall commence an inspection of the home not later than ten business days after receiving the request.
- (b) On request, submitted in a manner and form approved by the director, the director may review plans for a building that is to be used as a home for compliance with applicable state and local building and safety codes.
- (c) The director may charge a fee for an expedited licensing inspection or a plan review that is adequate to cover the expense of expediting the inspection or reviewing the plans. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections and reviewing plans.
- (C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility.
- (D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:
- (1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.
- (2) The home is both a nursing home and a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.
- (3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on

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request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or

part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

- (F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any either of the following:
- (a) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code:
- (b) An advertisement, unless the advertisement includes all of the following:

(i) The date the inspection or investigation was conducted;

- (ii) A statement that the director of health inspects all homes at least once every fifteen months;
- (iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;
- (iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;
  - (v) The average number of findings and deficiencies cited in a statement

of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;

(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.

(2) Nothing in division (F)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 5165.67. The results of a survey of a nursing facility that is conducted under section 5165.64 of the Revised Code, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the survey, shall be used solely to determine the nursing facility's compliance with certification requirements or with this chapter or another chapter of the Revised Code. Those results of a survey, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any either of the following:

(A) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an administrative action by the department of medicaid or contracting agency under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(B) An advertisement, unless the advertisement includes all of the following:

(1) The date the survey was conducted;

(2) A statement that the department of health conducts a survey of all nursing facilities at least once every fifteen months;

- (3) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;
- (4) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the survey;
- (5) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of a survey conducted under section 5165.64 of the Revised Code during the same calendar year as the survey used in the advertisement;
- (6) A statement that the advertisement is neither authorized nor endorsed by the department or any other government agency.

Nothing in this section prohibits the results of a survey, a statement of

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deficiencies, or the findings and deficiencies cited in that statement on the basis of the survey under this section from being used in a criminal investigation or prosecution.

SECTION 2. That existing sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 of the Revised Code are hereby repealed.

Sub. H. B. No. 290		130th G.A	
Speaker	of the House of Representatives.		
	President _		of the Senate.
Passed		, 20	
Approved		, 20	
			Governor.

Sub. H. B. No. 290		130th G.A.
The section num complete and in confe	abering of law of a general cormity with the Revised Code	and permanent nature is
-	Director, Legislative	e Service Commission.
Filed in the officeday of	e of the Secretary of State at, A. D. 20	Columbus, Ohio, on the
		Secretary of State.
File No.	Effective Date	

# IN THE COURT OF COMMON PLEAS FOR CHAMPAIGN COUNTY, OHIO

HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Plaintiff.

V.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402,

Defendant.

Case No.

Judge

# COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

ANSPACH MEEKS ELLENBERGER LLP Robert M. Anspach (0017263) J Randall Engwert (0070746) Charles D. Rittenhouse (0088012) 300 Madison Ave., Suite 1600 Toledo, Ohio 43604-2633 Telephone: (419) 246-5757 Facsimile: (419) 321-6979

Attorneys for Heartland of Urbana OH, LLC

Now comes Heartland of Urbana OH, LLC, d/b/a Heartland of Urbana, by its attorneys and the law firm Anspach Meeks Ellenberger LLP, and for its *Complaint for Injunctive and Other Relief* against McHugh Fuller Law Group, PLLC, to demonstrate that Heartland of Urbana is entitled to a temporary restraining order, preliminary and permanent injunctive and other relief.

#### INTRODUCTION

1. Through this lawsuit, Heartland of Urbana, a skilled nursing facility, seeks to enjoin the campaign of false and misleading advertising waged by McHugh Fuller Law Group, PLLC. In a clear effort to encourage tort litigation against Heartland of Urbana, and other similarly situated skilled nursing facilities throughout Ohio, and to profit greatly therefrom, Defendant distributes advertisements of sensational content (see e.g. Exhibits A and B), which contain deliberatefy misleading references to certain government surveys, performed upon Heartland of Urbana's

facility, in order to deceive Heartland of Urbana's clientele and the citizens of the surrounding community into believing that Heartland of Urbana is unsafe and has harmed their loved ones and community members. As explained below, the messages contained in these advertisements are false and misleading.

- 2. By purposefully misrepresenting the nature of the government inspections, or surveys, and by omitting critical information specific thereto, Defendant is likely to deceive the public and, contemporaneously, cause significant reputational and monetary harm to Heartland of Urbana. Therefore, Defendant's false advertising campaign violates Ohio's Deceptive Trade Practices Act, R.C. Chapter 4165. Defendant must be temporarily, preliminarily and permanently enjoined from further engaging in such deception at the expense and detriment Heartland of Urbana and the public.
- 3. In order to prevent further the immediate and irreparable injury that has already occurred and will surely continue from Defendant's meretricious solicitations, and pursuant to Civ.R. 65, Heartland of Urbana requests that this Court promptly enter a temporary restraining order to immediately prevent any further damage issuing from the print and online iterations of Defendant's advertisement and issue a preliminary and permanent injunction following a hearing on these allegations.
- 4. Finally, given the bad faith and willful nature of Defendant's false and deceptive advertising, Heartland of Urbana prays this Court assess against Defendant all reasonable attorneys' fees and costs incurred by Heartland of Urbana in prosecuting these claims.

## PARTIES, JURISDICTION, AND VENUE

- 5. Heartland of Urbana OH, LLC, (hereinafter "Heartland of Urbana") is an Ohio limited liability company with its principal place of business located at 741 E. Water Street, Urbana, Ohio, 43078.
- 6. Defendant McHugh Fuller Law Group, PLLC, (hereinafter "McHugh Fuller") is a professional limited liability company organized under the laws of Mississippi and authorized to transact business in Mississippi and West Virginia, whose attorneys regularly solicit and contract for representation of clients in Champaign County and throughout Ohio.
- 7. McHugh Fuller maintains its principal office at 97 Elias Whiddon Road, Hattiesburg, Mississippi 39402.
- 8. McHugh Fuller is subject to personal jurisdiction before this Court pursuant to the Ohio Revised Code for contracting to supply services and transacting business in this state. R.C. 2307.382(A)(1-2).
- 9. Venue and jurisdiction are proper in this Court for Champaign County pursuant to the Ohio Civil Rules. *Id.* at 3(B)(3 and 6).

#### STATEMENT OF FACTS

### Defendant's Advertising Campaign

- 10. Heartland of Urbana operates an 85 bed skilled nursing facility, located at 741 E. Water Street, Urbana, Champaign County, Ohio.
- Heartland of Urbana's facility is ranked by the federal government as a "Five Star" nursing facility, which is the highest ranking available to a nursing home. Heartland of Urbana also received a "Five Star" rating for the government health inspection (or "survey") category.

- 12. McHugh Fuller have no office or place of business in Ohio. However, attorneys with the law firm are licensed to practice law in Ohio and regularly solicit for clients in Ohio, and pursue legal action on behalf of their clients in Ohio.
- 13. McHugh Fuller advertises its services across the country in an effort to bring claims against skilled nursing facilities, and have advertised directly to citizens of Champaign County and Urbana, Ohio, and those who are or are related to past and present residents of Heartland of Urbana.
- 14. McHugh Fuller's systematic efforts to induce clients to bring suit against Heartland of Urbana and other skilled nursing facilities include a pattern of ongoing newspaper and online advertisements, which are false, fraudulent, deceptive, and misleading. McHugh Fuller is aware of the false and deceptive nature of these advertisements.
- 15. Most recently, McHugh Fuller targeted Heartland of Urbana by taking out a full-page print advertisement in the Urbana local newspaper, the *Urbana Daily Citizen*, and an identical and correlating digital advertisement on the newspaper's website. True and accurate copies of the advertisement, including the print advertisement as it appeared in the printed newspaper and color print of the digital copy, are attached to this *Complaint* as Exhibits A and B, respectively.
- 16. The printed newspaper advertisement ran on December 13, 2014. The online digital copy of the same advertisement first appeared on the *Urbana Daily Citizen* website on the same date, and has ongoing and uninterrupted presence from that date to the day of this filing. *See ATTENTION!* The government..., URBANA DAILY CITIZEN, Dec. 13, 2014, http://ads.urbanacitizen.com/urbana-oh/communication/newspaper/urbana-daily-citizen/2014-12-13-1442672-attention-the-government-has-cited-heartland-of-urbana-nursing-and-

rehabilitation-center-for-failing-to-provide-necessary-care-and-services-to-maintain-the-highest-well-being-of-each-resident-if-you-suspect-that-a-loved-one-was-neglected.

- 17. The advertisement contains a photograph of the front exterior of Heartland of Urbana's facility, including the signage at the front of the property, reading "HCR ManorCare: Heartland of Urbana; Nursing and Rehab. Center; Alzheimer's Care."
- 18. The photograph on the advertisement is accompanied by the following solicitation:

#### ATTENTION!

The government has cited2

#### HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was NEGLECTED or ABUSED at Heartland of Urbana, call McHugh Fuller today!

Has your loved one suffered?
Bedsores
Broken Bones
Unexplained Injuries
Death
1-800-939-5580
[McHugh Fuller Law Group]

<sup>&</sup>lt;sup>1</sup> The quoted portion of the advertisement takes into account only the language and the use of capital letters and boldface font. It does not account for the relative and varied size of the advertisement's fonts or the use of color, including the appearance of the words neglected, abused, and death in red. See Exhibits A and B.

<sup>&</sup>lt;sup>2</sup> The advertisement's use of the word "cited" refers to routine surveys performed in accordance with 42 C.F.R. 483 et seq., known as the "OBRA Regulations," which serve as the basis for determining whether a skilled nursing facility may participate in the Medicare reimbursement program. See id. at 483.1(b); see also R.C. 3721.02. The OBRA Regulations are administered by state surveyors with oversight and additional levels of surveys conducted by the federal Centers for Medicare and Medicaid Services ("CMS"). Particularly, CMS contracts with each state to carry out the annual and periodic survey functions to determine whether nursing facilities are in substantial compliance with OBRA Regulations, so that they may qualify for reimbursement. See 42 U.S.C. 1395aa. Under the OBRA Regulations, over 91 percent of nursing homes surveyed are found to have "deficiencies" indicating that they are not in substantial compliance with the conditions of participation.

- 19. McHugh Fuller's advertisement states the government "has cited" Heartland of Urbana "for failing to provide necessary care and services to maintain the highest well-being of each resident." The "has cited" language leads the reader to believe that the alleged citation has been recent. This is itself and alone, apart from the rest of the advertisement, false and deceptive, because Heartland of Urbana has not had a citation remotely similar to the advertisement's language since June of 2010, more than four years ago.
- 20. Additionally, McHugh Fuller's advertisement fails to disclose that any alleged deficiency of the sort quoted in the advertisement in fact did not cause any harm to any nursing home patient, or that the facility corrected and removed the alleged deficiencies from June 2010.

# Defendant's Awareness of the False and Deceptive Nature of Their Advertisements

21. McHugh Fuller has been previously enjoined in Georgia for an effectively identical advertisement appearing, as here, in both print and online editions of the community newspaper local to the given skilled nursing facility. The plaintiff there was another skilled nursing facility, known as Heritage Healthcare of Toccoa. Based upon the correlative advertisement, the Superior Court of Stephens County, Georgia, found first that "Defendant's advertisement is false and misleading and therefore violates Section 10-1-372 of the Georgia Uniform Deceptive Trade Practices Act," and additionally that "(i) Plaintiff will be irreparably injured as a result of Defendant's advertisement; (ii) the balance of hardship tips decidedly in favor of Plaintiff because Defendant will not suffer significant or irreparable injury through entry of this Order; and (iii) the entry of this Order is in the public interest." *Pruitthealth—Toccoa, LLC v. McHugh Fuller Law Group, PLLC*, Civil Action No. 14-SU-CV-176CC (Stephens County, GA, June 2, 2014), attached hereto as Exhibit C.

- 22. Heartland of Urbana has not had a citation of any kind for over two years, and has not had a citation even approximating that suggested by the advertisement ("failing to provide necessary care and services to maintain the highest well-being of each resident") for over four years.
- 23. Heartland of Urbana has been deficiency free (that is, without government survey citation of any kind) since October 1, 2012, over two years prior to the publication of McHugh Fuller's advertisement.
- 24. The citation from October 1, 2012, was of a particular nature entirely distinct from the aspersions of McHugh Fuller's advertisement. The October 2012 citation was a level "D" citation, the least severe degree that can be cited by the government for finding a facility out of "substantial compliance." A level D citation means that no resident experienced any actual harm as a result of an isolated deficiency, but only the "potential" for harm. *See* CMS Scope and Severity Grid, attached as Exhibit D.<sup>3</sup>
- 25. The language of McHugh Fuller's advertisement suggests, though it does not accurately quote, the language of an "F309" citation, which reads, "Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care." State Operations Manual, Appendix PP, page 157 et seq., http://cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\_pp\_guidelines\_ltcf.pdf.
- 26. McHugh Fuller's advertisement intentionally misstates and mischaracterizes the language of the F309 tag, omitting material language, such as the term "practicable," in order to give a false

<sup>&</sup>lt;sup>3</sup> Also available online within the context of the CMS Nursing Home Data Compendium, 2013, which is the most recent edition at the CMS website. http://www.cms.gov/Medicare/Provider-Enrollment-and-CertificationandComplianc/downloads/nursinghomedatacompendium\_508.pdf.

impression that the government requires Heartland of Urbana to obtain a higher degree of patient care than is actually required.

- 27. Heartland of Urbana has not received an F309 citation since June 24, 2010, more than *four years* prior to McHugh Fuller's advertisement. The citation in 2010 was a level "E," which is the second least severe citation for a facility to be out of substantial compliance. A level E citation, like level D, means that no resident experienced any actual harm. *See* Exhibit D.
- 28. In addition to misquoting the F309 citation language, McHugh Fuller's advertisement falsely and deceptively misstates the nature of the government censure against Heartland of Urbana in 2010. Specifically, while the advertisement states that the government "has cited" Heartland of Urbana "for failing to provide the necessary care and services to maintain the highest well-being of each resident," the actual language of the citation stated that the facility had "failed to ensure residents received timely bowel management, antibiotic therapy and emergency services." Department of Health and Human Services, Centers for Medicare & Medicaid Services, Form OMB NO. 0938-0391, June 24, 2010, at 15 of 23, attached as Exhibit E.
- 29. Compounding the deceptive and misleading advertising practices detailed above, McHugh Fuller failed to include any reference to the survey purportedly forming the basis of the solicitation. Given that it appears the citation forming the basis of the advertisement is more than four years old, it is virtually impossible for the general public to ascertain the veracity of the solicitation and determine its misleading nature for themselves.

#### Immediate and Irreparable Harm

30. As a result of McHugh Fuller's advertisement, Heartland of Urbana has suffered numerous harms including, but not limited to, immediate and irreparable reputational and stigmatic harm in the Urbana community as well as reputational harm in the skilled nursing industry and to the

industry as a whole. Reputational and stigmatic injuries, by their very nature, are inevitably irreparable.

## Ohio and Other States' Policies against Advertisements Referencing Survey Reports

- 31. Ohio and other states have articulated policies and legislation against using information from survey reports for legal advertisements or for any other purpose than "to determine the home's compliance with this chapter or another chapter of the Revised Code." R.C. 3721.02(F)(1); see also e.g. Facilities, Providers & Managed Care Plans, Pennsylvania Department of Health (last accessed Dec. 23, 2014), http://www.portal.state.pa.us/portal/server.pt/community/facilities,\_providers\_managed\_care\_plans/11603.
- 32. While Ohio law specifies that "[e]xcept as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section . . . shall be used solely to determine the home's compliance," a recent Ohio Bill, signed into law by the Governor on December 19, 2014, taking effect 90 days from the date of signing, amends R.C. 3721.02 and 5165.67 to expressly prohibit advertisements from referencing and citing to results of any such survey, unless the advertisement includes a list of information specific to the cited survey, inspection, or investigation. *See* Am.Sub.H.B. No. 290, Sec. 3721.02, 130<sup>th</sup> General Assembly Regular Session, 2013-2014, pp. 15 19. Attached hereto as Exhibit F.

# COUNT ONE—DECEPTIVE TRADE PRACTICES ACT R.C. CHAPTER 4165

- 33. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-32.
- 34. The Urbana advertisement of December 13, 2014, is inherently and facially false, confusing, and misleading, and therefore violates the Ohio Deceptive Trade Practices Act ("the

Act"), codified at R.C. 4165.02, inasmuch as Defendants have engaged in deceptive trade practice by doing *inter alia* the following:

- a. causing a likelihood of confusion or misunderstanding with respect to the government's certification of services in the form of regular surveys (see id. at 4165.02(A)(2) and (3)); and
- b. representing that Heartland of Urbana's services have certain characteristics they do not have (see id. at 4165.02(A)(7)); and
- c. representing that Heartland of Urbana's services are other than fully sufficient and currently in compliance with federal and state requirements and standards (see id. at 4165.02(A)(9)); and
- d. disparaging Heartland of Urbana's services and business by false representation of fact (see id. at 4165.02(A)(10)).
- 35. The Act provides for injunctive relief where it is found that a defendant has committed an act constituting a deceptive trade practice as defined by statute. Under certain circumstances, it provides also for attorney's fees to the prevailing party (*see id.* at 4165.03(B)), viz.:
  - a. Defendants have "willfully engaged" in the trade practices articulated in ¶38(a-d), supra, and are therefore subject to an assessment of Heartland of Urbana's reasonable attorney's fees.
- 36. As a result of McHugh Fuller's advertisement through the *Urbana Daily Citizen*, Heartland of Urbana has suffered and is likely to further suffer stigmatic injury and loss of business opportunities, as well as immediate and irreparable harm to its goodwill, and contractual and business relationships if McHugh Fuller is not temporarily restrained, and preliminarily and permanently enjoined from maintaining their currently circulated advertisements, as described above, and from publishing future advertisements that are comparably false, fraudulent, deceptive, and misleading.

- 37. Heartland of Urbana has no adequate remedy at law with regard to McHugh Fuller's false, fraudulent, deceptive, and misleading advertisements in newspapers or other media, including online iterations of same, in this jurisdiction or elsewhere in this State.
- 38. A balancing of the equities between the parties weighs heavily in Heartland of Urbana's favor as to whether McHugh Fuller should be permitted to publish such false, fraudulent, deceptive, and misleading advertisements in newspapers and other media concerning Heartland of Urbana and Heartland of Urbana's business.
- 39. As a result of McHugh Fuller's violations of R.C. 4165.02, and pursuant to R.C. 4165.03 and Civ.R. 65, Heartland of Urbana is entitled to temporary, preliminary and permanent injunctive relief and an award of attorney's fees and such other and further relief as the Court deems just and equitable.

#### COUNT TWO—DEFAMATION: LIBEL AND LIBEL PER SE

- 40. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-39.
- 41. McHugh Fuller's advertisement subjects them to liability pursuant to a cause of action for both libel and libel per se.
- 42. McHugh Fuller's advertisement is directed at Heartland of Urbana with the specific intent (a) to injure Heartland of Urbana's reputation, (b) to expose it to public hatred, contempt, ridicule, shame, and disgrace, and (c) to injure its business and trade.
- 43. The advertisement makes false aspersions against Heartland of Urbana by deliberate misstatements and misapplications of information from survey reports of the facility, which the advertisement advances as these statements were factual, and which are not privileged.

- 44. The advertisement specifically and unequivocally regards Heartland of Urbana and its facility.
- 45. McHugh Fuller's statements, made through the advertisement, are actionable in and of themselves, without regard to McHugh Fuller's intent in publishing them. The words and their effect are of such an inherently damaging nature and subject Heartland of Urbana to public hatred, contempt, and scorn.
- 46. Heartland of Urbana has suffered stigmatic and reputational harms as a further result of the advertisement, and in addition to any quantifiable damages experienced at the facility and in the community.
- 47. As a result of McHugh Fuller's libel per se, and pursuant to Civ.R. 65, Heartland of Urbana is entitled to temporary, preliminary, and permanent injunctive relief and an award of attorneys' fees and such other and further relief as the Court deems just and equitable.

## COUNT THREE—DEFAMATION: FALSE LIGHT INVASION OF PRIVACY

- 48. Heartland of Urbana incorporates by reference as if fully rewritten herein the averments set forth in paragraphs 1-47.
- 49. McHugh Fuller's advertisement subjects them to liability pursuant to a cause of action for false light invasion of privacy, which occurs when one maliciously gives publicity to a matter concerning another that places the other before the public in a false light.
- 50. The aspersions of McHugh Fuller's advertisement are highly offensive to the reasonable person and are in fact offensive to Heartland of Urbana.
- 51. McHugh Fuller's statements, made through their advertisement, are not privileged.
- 52. McHugh Fuller knew or should have known that the statements asserted in the advertisement were false and would be offensive to Heartland of Urbana. McHugh Fuller

recklessly disregarded the truth of the existing and most recent survey reports, which were available for review by McHugh Fuller prior to the publication of their advertisement.

53. As a result of McHugh Fuller's false and defamatory statements, and pursuant to Civ.R. 65, Heartland of Urbana is entitled to temporary, preliminary, and permanent injunctive relief and an award of attorneys' fees and such other and further relief as the Court deems just and equitable.

#### PRAYER FOR RELIEF

WHEREFORE, Heartland of Urbana OH, LLC prays for judgment against McHugh Fuller Law Group, PLLC as follows:

- A. That McHugh Fuller Law Group, PLLC be temporarily restrained and preliminarily and permanently enjoined pursuant to Civ.R. 65, R.C. 4165.02, et seq., and Ohio common law from publishing false, fraudulent, deceptive, and misleading advertisements concerning Heartland of Urbana, including the type of advertisements contained in Exhibits A and B hereto;
- B. Reasonable attorneys' fees and expenses of litigation incurred by Heartland of Urbana in connection with this litigation;
  - C. All costs of this action; and
- D. Such other and further relief as the Court deems just and appropriate under the circumstances.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

Ву:

Robert M. Anspach (0017263) J Randall Engwert (0070746)

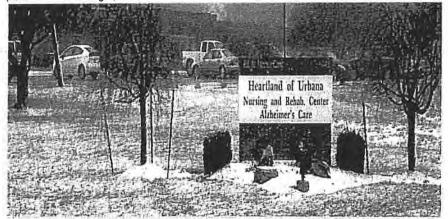
Charles D. Rittenhouse (0088012)

Attorneys for Plaintiff,

Heartland of Urbana OH, LLC



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# ATTENTION!

# The government has cited HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was

#### **NEGLECTED** or **ABUSED**

at Heartland of Urbana, call **McHugh Fuller** today!

Has your loved one suffered?

Bedsores

**Broken Bones** 

**Unexplained Injuries** 

Death

1-800-939-5580



108 1/2 Capitol Street, Suite 300 • Charleston, West Virginia 25304 97 Elias Whlddon Road • Hattiesburg, Mississippi 39402 Michael J. Fuller, Jr.

ADVERTISING MATERIAL

# AILYCITIZEN

What are you looking for?

쌆

Print Advertisements For McHugh Fuller Law Group In Hattiesburg, MI

97 Elias Whiddon Road

Hattlesburg MI 39402

1.

& Phone Number 800-939-5580



## ATTENTION!

The government has cited HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER

for failing to provide necessary care and services to maintain the highest well-being of each resident.

If you suspect that a loved one was

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Has your loved one suffered?

**Bedsores** 

**Broken Bones** 

Unexplained Injuries

Death

1-800-939-5580



108 1/2 Capital Street, Suite 300 - Charleston, West Virginia 25304 97 Elias Whiddon Road - Hattiesburg, Mississippi 39402 Michael J. Fuller, Jr.

ADVERTISING MATERIAL

ATTENTION! The government has cited HEARTLAND OF URBANA NURSING AND REHABILITATION CENTER for failing to provide necessary care and Services to maintain the highest well-being of each resident. If you suspect that a loved one was NEGLECTED or

Advertisement run on December 13 2014

(2g)

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Dec 13, 2014 - ATTENTION! The government has cred HEARTLAND OF URBANA NURSING AND REHABILITATION. [15] 13 Urbana Pravious Map data 02014 Google Admin Contents of Urbana Ohio Advertisements © 2014 Urbana Dally Citizen. All rights reserved Business Directory Newspaper Ad, and Dally Deal software are powered by Own Local

Local Hero, AdForge, and Dally Deals software @ 2008-2014.

Home | Privacy Policy | Terms of Service

PTEPHENS COUNTY
CLERK OF COURT
THOTRY B. GUICK, CLERK

## IN THE SUPERIOR COURT OF STEPHENS **G**STATE OF GEORGIA

2014 JUN 2 RM 8 53

PRUTTHEALTH - TOCCOA, LLC;

Plaintiff,

V.

Civil Action No. 14-SU-CV-176CC

MCHUGH FULLER LAW GROUP, PLLC,

Defendant.

## ORDER GRANTING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

Plaintiff initiated this case on April 18, 2014, alleging violations of the Georgia Uniform Deceptive Trade Practices Act and the Georgia Rules of Professional Conduct stemming from Defendant having published an advertisement about Plaintiff's nursing home facility, which is known as Heritage Healthcare of Toccoa.

The Defendant is a law firm with offices in West Virginia and Mississippi. Although Defendant does not have an office in Georgia, it does have attorneys who are licensed in Georgia, including James McHugh, who testified at the hearing on this matter. Defendant's full page color advertisement first appeared in the April 17, 2014 edition of *The Towa Record*, the local newspaper covering Stephens County, Georgia and surrounding areas. The advertisement invites families to contact Defendant about Plaintiff's nursing home.

With its Complaint, Plaintiff filed a Motion for an Ex Parte Temporary Restraining Order and Preliminary and Permanent Injunctive Relief against Defendant, alleging that Plaintiff is threatened with irreparable harm as a result of Defendant's alleged publishing false, fraudulent, deceptive, and misleading advertisements concerning the Plaintiff in violation of the Georgia Uniform Deceptive Trade Practices Act and the Georgia Rules of Professional Conduct. On April 21, 2014, the Court issued a Temporary Restraining Order enjoining the Defendant from certain actions until a hearing could be convened.

On May 13, 2014, the parties appeared for an evidentiary hearing before this Court, at which both parties called witnesses, introduces exhibits, and made arguments regarding the appropriateness of injunctive relief. Among other things, Plaintiff introduced testimony regarding a sharp decline in admissions since the advertisement was published. After hearing all of the evidence and arguments, the Court finds that Defendant's advertisement is false and misleading and therefore violates Section 10-1-372 of the Georgia Uniform Deceptive Trade Practices Act.

The Court further finds that: (i) Plaintiff will be irreparably injured as a result of Defendant's advertisement; (ii) the balance of hardships tips decidedly in favor of Plaintiff because Defendant will not suffer significant or irreparable injury through entry of this Order; and (iii) the entry of this Order is in the public interest.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to O.C.G.A. §§ 9-11-65, 10-1-373, and 10-1-423, the Court GRANTS Plaintiff's Motion for Injunctive relief.

IT IS FURTHER ORDERED that Defendant is enjoined from publishing or causing the offending advertisement to be published in the future. In addition, within twenty (20) days from the date of this Order, Defendant shall remove or cause to be removed at its expense all electronic postings of the advertisement by The Toccoa Record, including any electronic archived versions of the SO ORDERED this 23 day of May, 2014, Mane produce the 13 day of May, 2014. advertisement

The Honorable B. Chan Caudell

Superior Court of Stephens County

## General Civil Case Final Disposition Form (Non-Domestic)

Court County STEPHENS	Date Disposed 5-13.14
ØSuperior  □State  Docket # 14-54-C	
Reporting Party  Last First Middle 1. Suffice	x Prefix Maiden Title
Name of Plaintiff/Petitioner(s)  Put thought Toccoa LLC  Last Füst Middle L Sütfix Prefix Maiden  Plaintiff/Petitioner's Attorney Pro Se	Name of Defendant/Respondent(s)  MCHAGA FULLY LOW Group DL  Last First Middle I. Suffix Prefix Maiden  Defendant/Respondent's Attorney Pro Se
Last Füst Müddle I. Suffix Bur #	Last First Middle I. Suffix  Bar #
Type of Disposition (Check all that apply)  1. Pre-Trial Dismissal (Specify which type)  A. Involuntary  B. Voluntary (without prejudice)  C. Voluntary (with prejudice)  2. Pre-Trial Settlement  3. Default Judgment  4. Summary Judgment  5. Transferred/Consolidated  6. Bench Trial  7. Jury Trial (specify outcome further)	AWARD  1. If verdict for Plaintiff, how much was awarded?  \$   Compensatory   \$   Punitive  2. If verdict on cross or counter claims, how much was awarded?  \$   Compensatory   \$   Punitive  3. Did the court modify the award?    Yes   No  4. Were attempts fees awarded?    Yes   No
A. Dismissal after jury selected  B. Settlement during trial \ C. Judginent on Verdiet D. Directed Verdiet or JNOV	ADR  1. Was ADR utilized?  DYes DNo
1. Judgment on Verdict: Was the verdict:  A.   For Plaintiff(s) [all]  B.   For Defendant(s) [all]	<ol> <li>If yes, was it (check if applicable)</li></ol>
C. Other: (Explain)	submission) □Yes □No

Figure 2.1. Scope and Severity Grid for Rating Nursing Home Deficiencies

	Isolated	Pattern	Widespread
Immediate Jeopardy to Resident Health or Safety	J	K	L
Actual Harm that is Not Immediate Jeopardy	G .	Н	1
No Actual Harm with Potential for More than Minimal Harm that is Not Immediate Jeopardy	D	Е	F
No Actual Harm with Potential for Minimal Harm	Α	В	С

\*A level citations not reported by CMS Source: CASPER

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WALL LIVE	NT OF DEFICIENCIES I OF CORRECTION	(X1) PROVIDER/SUPPLIE IDENTIFICATION NU	er/Clia MBER:	(X2) MULT A. BUILDIN B. WING	IPLE CONSTRUCTION	(X3) DATE	M APPROV SURVEY LETED
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i i c s s r r c c l r c c l r c c c c c c c c c c	O.A.C. 3701-17-10 (comprehensive assesshall periodically reaminimum, every threm in the resident's physiconer. The nursing evise the assessment status. This proclude documentation (c) Changes in medically Updated nutritional rassistance and supeals;	l requirements and ne pervision of	initial nome at nange or nd nt's hall ving:	N 165			
(4	) Height and weight; ) prescription and ov edications;					,	
(5) pa	A functional assess ragraph (E)(8) of this	ment as described in rule;					
in p	paragraph (E)(4) of the	his rule; and					
1	Any changes in cognaring abilities or moon of Health	nitive, communicative d and behavior patter	or				

HEARTLAND/URBANA

02/41 Ohio Dept Health PRINTED: 07/07/2010 STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION FORM APPROVED (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION IDENTIFICATION NUMBER: (X3) DATE SURVEY A, BUILDING COMPLETED 1325N NAME OF PROVIDER OR SUPPLIER B. WING STREET ADDRESS, CITY, STATE, ZIP CODE 06/24/2010 HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 (X4) ID SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL PREFIX REGULATORY OR LSC IDENTIFYING INFORMATION) PROVIDER'S PLAN OF CORRECTION TAG IEACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE PREFIX (XS) TAG Continued From page 1 N 165 DEFICIENCY) DATE N 165 This Rule is not met as evidenced by: Based on record review and staff interview, the facility failed to enusre assessess residents were assessed for change in condition and bowel function. This affected two (Residents #25 and #46) of 11 sampled residents. Finding included: 1. Review of the June 2010 physician order sheet revealed Resident #26 had diagnoses which included diabetes, muscular dystrophy, osteomyelitis and chronic kidney disease. The minimumm data set (MDS) assessment dated 05/13/10 revealed the resident had no short or long term memory impairment, had difficulty with decisions in new situations, required extensive to total care for activities of daily living, had a suprepuble urinary drainage cathetere and pressure ulcers. Nursing notes dated 06/11/10 at 5:00 A.M. stated Resident #26 complained of abdominal pain. His abdomen was distended. Bowel sounds were present in all four quadrants. There was no documation that vital signs were assessed. Pain medication was given at that time. There was no documentation that the resident was reassessed until nursing notes dated 06/11/10 at 11:30 P.M., which identified the resident complained of abdominal pain. The resident's abdomen was distended, hard, firm, red, and warm to touch. His abdomen appeared three time larger than normal. The resident stated he could not eat due to pain and cramping. Pain medications were given but were not effective. The physician was notified at 11:30

emergency room. The ambulance was called, hio Department of Health

P.M. and ordered the resident sent to the

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Anspach Meeks Ellenberger, LL

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12-24-2014

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Ohio Dept Health PRINTED; 07/07/2010 FORM APPROVED STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY A. BUILDING COMPLETED 1325N B WING NAME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 06/24/2010 HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (X4) ID PREFIX (EACH DEFICIENCY MUST BE PRECEDED BY FULL PROVIDER'S PLAN OF CORRECTION REGULATORY OR LSC IDENTIFYING INFORMATION) TAG PREFIX (EACH CORRECTIVE ACTION SHOULD BE (X5) COMPLETE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE N 165 Continued From page 2 DEFICIENCY N 165 arrived at 12:05 A.M., and the resident admitted to the hospital. During an interview on 6/22/10 at 1:00 PM, LPN #55 verified the resident was not reassessed in a timely manner. 2. Review of the clinical record diagnosis report for Resident #46 revealed diagnoses of dementia, obstructive hydrocephalus, constipation, depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was admitted on 02/16/08 and resided on the secured unit. She had recently been hospitalized 05/05/10 through 05/10/10 for surgery to place a colostomy and a gastric feeding tube. Review of the ADL (activity of daily living) worksheet, completed by the Nurse Aids, for the month of March and April revealed that she had an irregular bowel movement pattern. In March 2010 and April 2010 she had no bowel movement documented for four days from a medium size BM on 03/02/10 until a small size BM on 03/07/10. No bowel movement was documented again from 03/14/10 through 03/16/10, 03/20/10 through 03/22/10, 03/28/10 through 04/01/10, 04/03/10 through 04/06/10, 04/10/10 through 04/14/10, 04/16/10 through 04/10/10 04/22/10 through 04/25/10 and 04/27/10 through 04/30/10. Review of the physician orders revealed no bowel medications (laxatives) were ordered routinely. Review of the as needed medication orders revealed an order for milk of magnesia suspension 30 milliliters by mouth as needed. Review of the medication administration records revealed that she received no milk of magnesia during the months of March or April. Review of the nurses notes for the months of March and April 2010 revealed no information nio Department of Health

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STATEME AND PLAN	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER	/CLIA	(X2) MULTI	PLE CONSTRUCTION		APPROV
		IDENTIFICATION NUMBER		A. BUILDIN B. WING	G	(X3) DATE COMPI	SURVEY LETED
NAME OF	PROVIDER OR SUPPLIER	1325N		11 112		001	A simo sa
	AND OF URBANA	1)	744 E MATE	SS, CITY, S	STATE, ZIP CODE	USI	24/2010
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N 184 Continued From pag	0.4			CROSS-REFERENCED TO THE DEFICIENCY)	APPROPRIATE	DATE
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the attending physicial the resident's sponsore representative, unless other proper authority and local laws and regions (1) An accident involving and local laws and regions intervention; (2) A significant change mental, or psycho-socideterioration in health, status in either life-three clinical complications; (3) A need to alter treat a need to discontinue a treatment due to advers commence a new form notification shall include circumstences and causinjury or death. A notation status and any interventic documented in the medic is a patient of a hospice of the responsibility of the hunless otherwise indicate plan of care required by the responsibility of the Adminication of the	s the resident object is the resident object in accordance with gulations when there ing the resident which as the potential for resident's place in the resident's place in a consequence, or of treatment. The seconsequences, or of treatment. The seconsequences, or of treatment. The seconsequences in the confidence in the change in the ion taken shall be ical record. If the resident record in the coordinated	s, and state sis: she equiring hysical, social or sich as r to liness, health be n rule				

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Ohio Dept Health PRINTED: 07/07/2010 STATEMENT OF DEFICIENCIES FORM APPROVED AND PLAN OF CORRECTION (X1) PROVIDER/SUPPLIER/CUA IDENTIFICATION NUMBER: (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY A BUILDING COMPLETED 1325N B. WING NAME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP GODE 08/24/2010 HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 (X4) ID PREFIX SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) PROVIDER'S PLAN OF CORRECTION TAG PREFIX (EACH CORRECTIVE ACTION SHOULD BE (X5) COMPLETE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY) TAG Continued From page 5 N 184 DATE N 184 residents. Findings include: Review of the clinical record diagnosis report for Resident #46 revealed diagnoses of dementia, obstructive hydrocephalus, constipation, depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was hospitalized 05/05/10 through 05/10/10 for surgery (colostomy and gastric feeding tube). Review of the ADL (activity of dally living) worksheet completed by Nurse Aids for the month of March and April 2010 revealed the resident had a medium bowel movement (BM) on 03/02/10 and no BM until a small BM on 03/07/10 (five days). No bowel movement was documented again from 03/28/10 through 04/01/10 (four days), 04/03/10 through 04/06/10 (three days), 04/10/10 through 04/14/10 (four days), 04/16/10 through 04/10/10 (four days), 04/22/10 through 04/25/10 (three days) and 04/27/10 through 04/30/10 (three days). Review of the physician orders revealed no routine medications for constipation and an order for milk of magnesia suspension 30 milliliters by mouth as needed for constipation. Review of the medication administration records revealed that the resident received no milk of magnesia during the months of March or April. Review of nurses notes for the months of March and April 2010 revealed no information related to constipation. The record did not include physician notification regarding lack of bowel movements. Interview of the attending physician of Resident #46 on 06/22/10 at 2:30 P.M. revealed he was her physician for for one week and was now nio Department of Health

**FATE FORM** 

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PRINTED: 07/07/2010 Ohio Dept Health FORM APPROVED STATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY IDENTIFICATION NUMBER: A. BUILDING COMPLETED B WING 1325N NAME OF PROVIDER OR SUPPLIER 06/24/2010 STREET ADDRESS, CITY, STATE, ZIP CODE HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 (X4) ID SUMMARY STATEMENT OF DEFICIENCIES PREFIX (EACH DEFICIENCY MUST BE PRECEDED BY FULL PROVIDER'S PLAN OF CORRECTION (X5) COMPLETE TAG PREFIX REGULATORY OR LSC IDENTIFYING INFORMATION) (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY Continued From page 6 N 184 aware of her constipation because of the history of bowel impaction. He stated he expected the nurses to monitor bowel movements and notify the physician if no bowel movements were noted for several days. N 209 O.A.C. 3701-17-14 (E) Plan of Care; Treatment N 209 and Care; Discharge O.A.C. 3701-17-14 (E) The nursing home shall assure that all residents receive adequate, kind, and considerate care and treatment at all times. This Rule is not met as evidenced by: Based on review of the clinical record, staff Interview and physician interview, the facility failed to ensure residents received timely bowel management, antibiotic therapy and emergency services. This affected three (Residents #46, #23 and #26) of 11 sampled residents. Findings include: 1. Review of the clinical record diagnosis report for Resident #46 revealed diagnoses of dementia, obstructive hydrocephalus, constipation, depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was hospitalized 05/05/10 through 05/10/10 for surgery (colostomy and gastric feeding tube). Review of the ADL (activity of daily living). worksheet completed by Nurse Aids for the month of March and April 2010 revealed the resident had a medium bowel movement (BM) on 03/02/10 and no BM until a small BM on 03/07/10 (five days). No bowel movement was

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pulmonary disorder, anxiety, diabetes, dementia,

Review of the Diagnosis Report revealed diagnosis which included chronic obstructive

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MAGE 11/41 PRINTED: 07/07/2010 Ohio Dept Health FORM APPROVED STATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION IDENTIFICATION NUMBER: (X3) DATE SURVEY A. BUILDING COMPLETED B. WING 1325N NAME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 06/24/2010 HEARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 (X4) ID SUMMARY STATEMENT OF DEFICIENCIES PREFIX (EACH DEFICIENCY MUST BE PRECEDED BY FULL PROVIDER'S PLAN OF CORRECTION REGULATORY OR LSC IDENTIFYING INFORMATION) TAG PREFIX (EACH CORRECTIVE ACTION SHOULD BE (X5) COMPLETE CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY) N 209 Continued From page 10 N 209 schizophrenia, psychosis, elevated blood pressure, congestive heart failure, depression and obesity. Review of the Minimum Data Set (MDS) assessment dated 04/22/10 revealed Resident #1 had difficulty remembering short and long term memories and was moderately cognitively impaired. Review of the Plan of Care regarding pain for Resident #1 dated 03/25/10 stated non-pharmacological interventions for pain included: redirect with television; reposition; offer comfort foods prior to administering the pain medication. Review of Plan of Care regarding anti-anxiety medication state to monitor mood, assure basic needs are met, offer to decrease environmental stimulus by offering to close blinds, and offer soft music are to be tried prior to administering the anti-anxiety medication. Review of the Medication Administration Record (MAR) for June, 2010 revealed an order for .25 milligrams (mg) of Alprazolam (Xanax anti-anxiety medication) as needed (pm) every eight hours. Further review of the MAR revealed the medication had been administered 18 times in June. Continued review of the MAR revealed no documentation as to why the medication had been administered on these dates. Review of the nurse's notes during this period revealed no documentation as to why the medication had been administered or what behaviors the resident was exhibiting. Continued review of the MAR for June, 2010 revealed an order dated 01/18/10 for hydrocodone/APAP 5-500 (Vicodin - narcotic

medication was administered 11 times June with hio Department of Health

analgesic) every six hours prn for moderate to severe pain. Review of the MAR revealed the

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N 404	non-pharmacologic prior to administerio Registered Nurse (were to document emedications were abehaviors the reside non-pharmacologic prior to administerior further verified there any behaviors or no interventions tried pabove medications in Review of the facility administration dated Documentation inclucomplaints and subsequence (a) 3721.12(A)(1) In ADMINISTRATOR  R.C. 3721.12(A	cal Interventions had any the medication.  26/22/10 at 1:40 P.M. R.N.) #65 stated the every time why any produced in the medication. Research the every time why any produced and interventions were at interventions were at interventions were as the medication. Research was no documental in-pharmacological rior to administering for both of these residence of the produced States of the sequent interventions.  DUTIES OF  The administrator of dvice of residents, the stablish and review as cles regarding the lementation of residence of the sequent interventions and the home's gries and the home's gries and the home's gries and adherence to the sequence of the sequence	nurses om og what od what etried the idents. edication suggested eations or s.  I a home ell ell ell ell ell ell ell ell ell e	N 209	DEFICIENCY		

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	This Rule is not meased on review of procedures for Abin Misappropriation of and interview, the facility policy for Ali Misappropriation of was implemented to the State of th	net as evidenced by:  If the facility policy and use, Neglect and If Patient Property Pre- facility failed to ensure cuse, Neglect and If Patient Property Pre- to ensure that incident aled and that allegation te agency immediately cted two (#13, #15) of reported incidents (SF is of verbal abuse.  If policy and procedur If Misappropriation of In, dated 04/21/06, revi- patient has the right to the subjected to abuse ut not limited to facility of other agencies ser abuse was defined as language that willfully regatory terms to patie	vention, e that the vention is were ons were ons were ons were on within five RI)  e for Patient ealed on o be free by / staff, ving the coral, included ents or end, or oughly occeds, ted to dinator ey and atted to dinator ey and extends to the extends to	N 404	DEFICIENCY		
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	1. Review of the final revealed (unidentified) had a tested nurse aid (\$\frac{9}{21}/10\$ revealed (unidentified) had a tested nurse aid (\$\frac{9}{13}\$. The final representation the employee investigation reveal unaware of any situation to the control of the co	acility reported incide that a staff member reported overhearing STNA) #75 cursing at ort dated 09/25/09 in was suspended and aled that the resident uation. The investigated for review.  The policy and proces of the policy and proces in the policy and proces that was unaware of ited the definition of when policy and proces.	State Resident dicated an was ation was lurse #72 the verified for could not notusion any rerbal dure did licated ed by the ate y action hal abuse licated agency s incident an he ployee	N 404	DEFIGIENC		

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AND PLAN	NT OF DEFICIENCIES NOF CORRECTION	(X1) PROVIDER/SUPPLI	ER/CLIA JMBER:	(X2) MULTI A. BUILDIN B. WING	PLE CONSTRUCTION G	(X3) DATE	M APPROV	
NAME OF	PROVIDER OR SUPPLIER	1325N						
	AND OF URBANA		1 741 E W	ODRESS, CITY, S ATER STREET, OH 43078	STATE, ZIP CODE T	06/	24/2010	
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N 411	Continued From page 16			N 411	DEFICIENCY	)	DATE	
In interest in the star and veri indicactic	State Tesled Nurse Resident #13. The indicated STNA #75 investigation revealed of any situation. The available for review.  Review of the person revealed a hire date devaluation for the person the evaluation indicated the evaluation indicated the evaluation indicated the evaluation of the person of the evaluation indicated the sure that resident und care provided by the factor of the evaluation could not at the staff witness we erview and without the identified. She verified the staff witness we erview and without the identified. She verified the traction. She verified the require the resident in reported by another field the personnel fill cate additional abuse on related to the 09/2 se of a resident.	antified) reported over Aid (STNA) #75 curs final report dated 09/2 was suspended and at the resident was una investigation was not one file for STNA #75 of 08/04/09. The 90 of 08/04/09 for out of she received a need ion for organization a ording to the job described that she received (23/09 for failing to for out a resident to be allity and 09/24/09 for int needs were met an efore rounds with the state Registered Nurse M. revealed that the be located. She veri as not identified for the investigation could fied the facility conclusivas unaware of any the definition of verbal policy and procedure to be aware and that a incident was witnessed incident was witn	thearing ing at 25/09 an aware of a sign at 25/09 an a					

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STATEMENT OF DE AND PLAN OF COR	RECTION	(X1) PROVIDER/SUPPL IDENTIFICATION N	IER/CLIA UMBER;	(X2) MULT A BUILDIN B. WING	IPLE CONSTRUCTION	(X3) DATE	M APPRO
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HEARTLAND O			STREET AL	DRESS, CITY, 8	STATE, ZIP CODE	06/	24/2010
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N 411 Continued From page		10m 47			DEFICIENCY	(E ADDDANELLES	DATE
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#15. The nurse is suspending the empton of 6/2 investige occurred involved a resident reported verified the previous function of the previous function of the property including the patients, and including the patients, and including the families of the property of the property of the property of the patients, and including the families of the families of the patients of the patie	the incident wand an STNA ded, the investment of the incident. If the facility pages and occurred the facility pages and investment of the	rate Registered Nurs P.M. revealed the fact led the incident had ed that STNA #75 had d incident of verbal at g according to incide Agency by the facility t indicated that anoth ad witnessed and rep She verified that the A #75 did not reflect t	dent charge eted and e #72 illity d been buse of ints er corted e hat the lation for tient id: ad, luded e or				

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TEMENT OF DEFICIENCIES  PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	A. BUIL B. WING		OMB NO. 0938-03 (X3) DATE SURVEY COMPLETED	
WE OF PROVIDER OR SUPPLIER			STOCET Abbrecon District	06/2	24/2010
EARTLAND OF URBANA			STREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078	DE	
(EFIX ) (CACH DEFICIENCY	TEMENT OF DEFICIENCIES MUST BE PRECEDED BY FULL SCIDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF COR [EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE A DEFICIENCY)	CUALIFIE	COMPLETION (X5)
CENSUS: 47 MEDICARE: 05 MEDICAID: 30 OTHER: 12 The following deficier annual survey completed 483.10(b)(11) NOTIFICATION (INJURY/DECLINE/R) A facility must immedit consult with the resided known, notify the resided known, notify the resident involving the injury and has the potenintervention; a signification physical, mental, or psycheterioration in health, status in either life three clinical complications); significantly (i.e., a new existing form of treatmer consequences, or to consequences, or to contract the resident from the fast 483.12(a).  The facility must also prand, If known, the resident from the fast 483.12(a).	Cles are based on the eted 06/24/10. Y OF CHANGES OOM, ETC) ately inform the resident; ent's physician; and if ient's legal representative member when there is an resident which results in ential for requiring physician and change in the resident's ychosocial status (i.e., a mental, or psychosocial atening conditions or a need to elter treatment d to discontinue an ent due to adverse mmence a new form of in to transfer or discharge cility as specified in comptly notify the resident ent's legal representative observable there is a	F 157	Heartland of Urbana has a continue to be in substant compliance with 42 CFR. Subpart B. Heartland of U or will have substantially the alleged deficiencies an substantial compliance by specified herein.  This Plan of Correction co Heartland of Urbana allege substantial compliance suc alleged deficiencies cited herein.	ial Part 483 Irbana has corrected ad achieved the date  institutes ation of the that the lave been gust 3,  s plan are not the the To antial Federal bana has this	8/3/10

lency statement ending with an exteriek (\*) denotes a deficiency which the institution may be excused from correcting providing it is determined that iguards-provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosuble 90 days the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 wing the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued

EPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 ENTERS FOR MEDICARE & MEDICAID SERVICES FORM APPROVED OMB NO. 0938-0391 TEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION I PLAN OF CORRECTION IDENTIFICATION NUMBER: (X3) DATE SURVEY A, BUILDING COMPLETED 365365 B. WING 06/24/2010 WE OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET EARTLAND OF URBANA URBANA, OH 43078 SUMMARY STATEMENT OF DEFIDIENCIES (4) 10 PREFIX PROVIDER'S PLAN OF CORRECTION (EACH DEFICIENCY MUST BE PRECEDED BY FULL REFIX REGULATORY OR LSC IDENTIFYING INFORMATION) (EACH CORRECTIVE ACTION SHOULD BE TAG CROSS-REFERENCED TO THE APPROPRIATE TAG DATE DEFICIENCY) - 157 Continued From page 1 Resident #46 received a thorough F 157 specified in §483.15(e)(2); or a change in abdominal assessment and clinical resident rights under Federal or State law or record has been updated to reflect the regulations as specified in paragraph (b)(1) of same. Resident #46 suffered no ill this section. effects from a lack of bowel The facility must record and periodically update movements every three days. This the address and phone number of the resident's said resident continues to receive legal representative or interested family member. medications to manage bowel function. This REQUIREMENT is not met as evidenced Like Residents received a thorough by: Based on review of the clinical record and abdominal assessment and their physician interview, the facility failed to notify the clinical record has been updated to physician when a resident had no bowel reflect the same by the movement for three or more days on multiple ADNS/Deisignee, Physician was occasions over a two month period. This affected notified for bowel management one (Resident #46) of 11 sampled residents. measures if indicated by the Findings Include: ADNS/Designee... Review of the clinical record diagnosis report for Nursing Staff will be inserviced on Resident #46 revealed diagnoses of dementia, abdominal assessment, proper obstructive hydrocephalus, constipation, documentation for recording of depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was bowel movements, providing PRN hospitalized 05/05/10 through 05/10/10 for laxatives, and proper notification to surgery (colostomy and gastric feeding tube). the Physician for a lack of bowel Review of the ADL (activity of dally living) movements exceeding three days by worksheet completed by Nurse Aids for the the ADNS and or designee on or month of March and April 2010 revealed the resident had a medium bowel movement (BM) on before 8/3/2010. 03/02/10 and no BM until a small BM on 03/07/10 (five days). No bowel movement was documented again from 03/28/10 through BM audit tool will be completed 04/01/10 (four days), 04/03/10 through 04/06/10 (three days), 04/10/10 through 04/14/10 (four threes times a week for 4 weeks by days), 04/16/10 through 04/10/10 (four days), the ADNS/Designee. 04/22/10 through 04/25/10 (three days) and

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ATE	ITERS FOR MEDICAL MENT OF DEFICIENCIES	RE & MEDICAID SERVICES			OMB N	M APPROVED 0. 0938-039
DPL	AN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER;	12	RULTIPLE CONSTRUCTION LDING	(X3) DATE	SURVEY
		365365	B. WII		1	
ME	OF PROVIDER OR SUPPLIER				06/	24/2010
	TLAND OF URBANA			STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET URBANA, OH 43078		
X4) II REF	X (EACH DEFICIENC REGULATORY OR	ATEMENT OF DEFICIENCIES BY MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFI TAG	PROVIDER'S PLAN OF CORRECT (EACH CORRECTIVE ACTION SHORT CROSS-REFERENCED TO THE APPLICATION OF THE PROVIDER CROSS-REFERENCE)	CUICARE	COMPLETION DATE
F 18	04/27/10 through 0 of the physician order medications for color magnesia suspenseded for constipated medication administration.	14/30/10 (three days). Review ders revealed no routine natipation and an order for milk nation 30 milliliters by mouth as ation. Review of the tration records revealed that an omit of mannesia during	F1	The quality assessment and assurance (QAA) committee validate the actions taken a effectively resolving the cit and verify the dates of com	e will re	
	and April 2010 rever constipation. The re	otes for the months of March aled no Information related to ecord did not include or regarding lack of bowel				
223 S=D	physician for for one her constipation becampaction. He stated monitor bowel mover physician if no bowel several days. 483.13(b), 483.13(b)(ABUSE/INVOLUNTA)	novements were noted for  1)(i) FREE FROM RY SECLUSION  right to be free from verbal, mental abuse, corporal	F 223	F 223 Free From Abuse/Inve Seclusion The facility will continue to that Residents are free from abuse.	ensure	8/3/10
	or physical abuse, cor Involuntary seclusion.	is not met as evidenced	¥	Resident #13 received a thore investigation to ensure the sa said resident. Conclusions of investigation do not support indications of verbal abuse.	fety of	

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Facility ID: OH00448

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EPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 ENTERS FOR MEDICARE & MEDICAID SERVICES FORM APPROVED OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION D PLAN OF CORRECTION (X3) DATE SURVEY IDENTIFICATION NUMBER. COMPLETED A. BUILDING B WING 365365 06/24/2010 ME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE EARTLAND OF URBANA 741 E WATER STREET URBANA, OH 4307B SUMMARY STATEMENT OF DEFICIENCIES X4) ID PROVIDER'S PLAN OF CORRECTION (EACH DEFICIENCY MUST BE PRECEDED BY FULL REFIX (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY) PREFIX COMPLETION REGULATORY OR LSC IDENTIFYING INFORMATION) TAG TAG F 223 Continued From page 3 F 223 Residents with allegations of abuse Misappropriation of Patient Property Prevention, will have a thorough investigation personnel file review and interview, the facility falled to ensure residents were free from verbal completed with timely reporting to abuse. This affected two (Residents #13, #15) of the appropriate agencies when five residents with self reported incidents (SRI) indicated immediately by the with allegations of verbal abuse. Administrator/designee. Findings include: Administrator and ADNS educated 1. Review of the SRI dated 09/21/10 revealed a on F 223 and completion of a staff member (unidentified) reported overhearing thorough investigation by Clinical State Tested Nurse Aid (STNA) #75 cursing at Consultant and or designee on or Resident #13. The final report dated 09/25/09 before 8/3/2010. Indicated STNA #75 was suspended and an investigation revealed the resident was unaware of any situation. The investigation was not Staff will be inserviced on Residents available for review. Rights and Abuse, Neglect, and Misappropriation of Fund, and Review of the personnel file for STNA #75 Nurses will be inserviced on proper revealed a hire date of 08/04/09. The 90 day evaluation for the period of 08/04/09 through documentation guidelines by the 11/04/09 documented she received a needs ADNS and or designee on or before improvement evaluation for organization and 8/3/2010 completing tasks according to the job description. The evaluation indicated that she received coaching forms on 09/23/09 for falling to follow Abuse Audit Tool will be conducted 3 X week for four weeks by the directions by a nurse to put a resident to bed before leaving the facility and 09/24/09 for failing Administrator/designee... to be sure that resident needs were met and last round care provided before rounds with the The quality assessment and oncoming shift. assurance (QAA) committee will Interview of the Corporate Registered Nurse #72 validate the actions taken are on 06/24/10 at 1:45 P.M. revealed that the effectively resolving the cited issues investigation could not be located. She verified and verify the dates of completion. that the staff witness was not identified for interview and without the investigation could not be identified. She verified the facility conclusion

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stated that the resident was unaware of any

the artificial frame frame of the owners.

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D PLAN	INT OF DEFICIENCIES NOF CORRECTION	RE & MEDICAID SERVICES  (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  365365	(X2) MUI TII A. BUILDING B. WING	PLE CONSTRUCTION	(X3) DATE	M APPROV O. 0938-03 SURVEY PLETED
ME OF	PROVIDER OR SUPPLIER		-		06/	24/2010
	LAND OF URBANA		/4	EET ADDRESS, CITY, STATE, ZIP C 1 E WATER STREET RBANA, OH 43078	ODE	
X4) ID REFIX TAG	LEAST DEPICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE	I para have a be and the con-	(X5) COMPLETION DATE
Ir on in occin- a re versit the period cool Ref. Abordance in cool in	not require the resident report Indicated and reported by and verified the personne indicate additional at action related to the abuse of a resident.  2. Review of the SRISTNA #75 was overholded the incident was with and an STNA. The endering the investigation was imployee was terminaterview with Corporate to 14.45 P. vestigation concluded courred. She verified volved in an alleged resident on 09/21/09 ported to the State Aurified that the report TNA (unidentified) has a previous incident, aronnel file of STNA wident had occurred a widen the previous incident that the report of the facility pouse, Neglect and Missingerty Prevention dat the patient has the right and be subjected to	the definition of verbal the policy and procedure did lent to be aware and that the incident was witnessed the retail member. She elifie of STNA #75 did not buse education or disciplinary 09/21/09 allegation of verbal dated 11/05/09 revealed heard yelling at Resident #15 hessed by the charge nurse imployee was suspended, completed and the ated.  Attended Registered Nurse #72 M. revealed the facility did the incident had it that STNA #75 had been incident of verbal abuse of according to incidents gency by the facility. She indicated that another divinessed and reported She verified that the incident had that the investigation review.  Ilicy and procedure for appropriation of Patient ed 04/21/06 revealed: int to be free from and to abuse by anyone, to facility staff, other reprises serving the	F 223	DEFICIENCY		

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Anspach Meeks Ellenberger, LL

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HEARTLAND/URBANA

06/28/2011 15:18 937-653-6817 PRINTED: 07/07/2010 PEPARTMENT OF HEALTH AND HUMAN SERVICES FORM APPROVED. ENTERS FOR MEDICARE & MEDICAID SERVICES OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES D PLAN OF CORRECTION (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY COMPLETED A, BUILDING B. WING 365365 06/24/2010 ME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET EARTLAND OF URBANA URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES PROVIDER'S PLAN OF CORRECTION PREFIX (X4) ID (X5) COMPLETION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) TAG TAG DATE DEFICIENCY) Continued From page 6 F 223 Individuals. Verbal abuse was defined as oral. written or gestured language that willfully included disparaging and derogatory terms to patients or the families, or within hearing distance, regardless of their age, ability to comprehend, or disability. F 225 Investigate/Report 8/3/10 483.13(c)(1)(ii)-(iii), (c)(2) - (4) F 225 F 225 Allegations/Individuals INVESTIGATE/REPORT SS=D **ALLEGATIONS/INDIVIDUALS** The facility will continue to ensure that allegations of verbal abuse are The facility must not employ individuals who have thoroughly investigated and reported been found quilty of abusing, neglecting, or to state survey and certification mistreating residents by a court of law; or have agencies within 5 days when had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment indicated. of residents or misappropriation of their property; and report any knowledge it has of actions by a court of law against an employee, which would Resident #13 received a thorough indicate unfitness for service as a nurse aide or investigation to ensure the safety of other facility staff to the State nurse aide registry or licensing authorities. said resident. Conclusions of the investigation do not support The facility must ensure that all alleged violations indications of verbal abuse. involving mistreatment, neglect, or abuse. including injuries of unknown source and Residents with allegations of abuse misappropriation of resident property are reported immediately to the administrator of the facility and will receive a thorough investigation to other officials in accordance with State law and reported timely to the through established procedures (including to the . appropriate agencies immediately by State survey and certification agency). the Administrator/designee. The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the Administrator and ADNS in serviced investigation is in progress. on F 225 by Clinical Consultant and or designee on or before 8/3/2010.

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The results of all investigations must be reported

representative and to other officials in accordance

to the administrator or his designated

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Facility ID; QH00448

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IEPARTMENT OF HEALTH AND HUMAN SERVICES ENTERS FOR MEDICARE & MEDICAID REDVICES

PRINTED: 07/07/2010 FORM APPROVED

ATEME O PLAN	nt of Deficiencies of Correction	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	A. BUIL B. WIN	-	(X3) DATE	0, 0938-039° SURVEY LETED
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	PROVIDER OR SUPPLIER  AND OF URBANA			STREET ADDRESS, CITY, STATE, ZIP CO 741 E WATER STREET URBANA, OH 43078	ODE	370
X4) ID REFIX TAG	REGULATORY OR	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	PREFIX TAG	PROVIDER'S PLAN OF CO (EAGH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	SHOULD BE	COMPLETION DATE
F F III III III III III III III III III	with State law (incident, and if the appropriate correct appropriation of and interview, the faultegation of verbal and interview, the faultegation of verbal and interview, the faultegation of verbal and interview allegations are sidents with Sinvolving allegations. The findings include:  Review of the SRI detected Nurse Aid (Sinvolving allegation. The faulted STNA #75 investigation revealed any situation. The valiable for review.  Review of the personal verbal and approvement evaluation for the perion for the perion for the perion forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation for the perions by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections by a nurse the approvement evaluation indicate aching forms on 09, sections and other aching forms on 09, sections and other aching forms on 09, sections and other achi	uding to the State survey and i) within 5 working days of the alleged violation is verified ive action must be taken.  IT is not met as evidenced the facility policy and se, Neglect and Patient Property Prevention, cility failed to ensure that an abuse was thoroughly ffected one (Resident #13) of alf Reported Incidents (SRI)	F 22	Staff will be inserviced of Rights and Abuse, Neglet Misappropriation of Fundamentation guidelines reporting by the ADNS at designee on or before 8/3  Abuse Audit tool will be weekly x 4 weeks by the Administrator/Designee.  The quality assessment and assurance (QAA) commit validate the actions taken effectively resolving the country the dates of control of the country that dates of control of the country that dates of control of the country the dates of control of the country that dates of control of the country the the	ct, and d, and l on proper s and timely nd or /2010.  completed  detee will are ited issues	

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DEPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 FORM APPROVED ENTERS FOR MEDICARE & MEDICAID SERVICES OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY D PLAN OF CORRECTION IDENTIFICATION NUMBER: COMPLETED A. BUILDING B. WING 365365 06/24/2010 ME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET EARTLAND OF URBANA URBANA, OH 43078 X4) ID SUMMARY STATEMENT OF DEFICIENCIES ID PROVIDER'S PLAN OF CORRECTION (EACH DEFICIENCY MUST BE PRECEDED BY FULL RÉFIX (X5) COMPLETION DATE PREFIX (EACH CORRECTIVE ACTION SHOULD BE REGULATORY OR LSC IDENTIFYING INFORMATION) TAG CROSS-REFERENCED TO THE APPROPRIATE TAG DEFICIENCY) F 225 Continued From page 7 F 275 to be sure that resident needs were met and last round care provided before rounds with the oncoming shift, Interview of the Corporate Registered Nurse #72 on 06/24/10 at 1:45 P.M. revealed that the investigation could not be located. She verified that the staff witness was not identified for interview and without the investigation could not be identified. She verified the facility conclusion stated that the resident was unaware of any situation. She verified the definition of verbal abuse according to the policy and procedure did not require the resident to be aware and that the final report indicated the incident was witnessed and reported by another staff member. She verified the personnel file of STNA #75 did not indicate additional abuse education or disciplinary action related to the 09/21/09 allegation of verbal abuse of a resident. Review of the facility policy and procedure for Abuse, Neglect and Misappropriation of Patient Property Prevention, dated 04/21/06, revealed on page six, that each patient has the right to be free from and must not be subjected to abuse by anyone, including but not limited to facility staff. other patients, staff of other agencies serving the patient, family members, friends, or other Individuals. Verbal abuse was defined as oral. written or gestured language that willfully included disparaging and derogatory terms to patients or the families, or within hearing distance, regardless of their age, ability to comprehend, or disability. Page 10 indicated the facility must have evidence that all allegations are thoroughly investigated and must prevent any further potential abuse while the Investigation proceeds. The allegation must be immediately reported to

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Event ID: 50BT11

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Anspach Meeks Ellenberger, LL 937-653-6817

HEARTLAND/URBANA

08:45:18 a.m.

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IEPARTMENT OF HEALTH AND HUMAN SERVICES

PRINTED: 07/07/2010 FORM APPROVE

		RE & MEDICAID SERVICES		1	OMB NO	D. 0938-0391
	NT OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIER/GLIA IDENTIFICATION NUMBER:	A BUII		(X3) DATE	
		365365	B. WIN	G	06/	24/2010
	PROVIDER OR SUPPLIER	3		ETREET ADDRESS, CITY, STATE, ZIP C 741 E WATER STREET URBANA, OH 43078		-112010
X4) ID REFIX TAG	(EACH DEFICIENT	TATEMENT OF DEFICIENCIES CYMUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREPD TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTION CROSS-REFERENCED TO THE DEFICIENCY)	V SHOULD BE	COMPLETION DATE
<del>-</del> 225	the supervisor and and to other official certification agenc	age 8 I abuse prevention coordinator Ils (Including state survey and by) in accordance with stated A nours after discovery of the	F 22	25		
SS=D	policies and procedulative mistreatment, negliand misappropriation of the procedures for Abu Misappropriation of and interview, the facility policy for Abu Misappropriation of was implemented to thoroughly investigate ported to the State 4 hours. This affects	evelop and implement written dures that prohibit et, and abuse of residents on of resident property.  It is not met as evidenced the facility policy and se, Neglect and Patient Property Prevention, will failed to ensure that the use, Neglect and Patient Property Prevention ensure that incidents were ted and that allegations were agency immediately, within the two (#13, #15) of five eported incidents (SRI)	F 22	Develop/Implement/abus ETC Policies The facility will continue that the facility policy for Rights and Abuse, Negled Misappropriation of patie implement to ensure that are thoroughly investigate allegations are reported to agencies immediately, withours.  Resident #13 received a thinvestigation to ensure the said resident. Conclusions investigation do not supported indications of verbal abuse.  Resident #15 received a three said resident.	to ensure Residents et, and ent funds are incidents ed and that estate thin 24  corough esafety of of the ext e.	8/3/10
		policy and propedure for		investigation to ensure the said resident.	e safety of	

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Review of the facility policy and procedure for Abuse, Neglect and Misappropriation of Patient Property Prevention, dated 04/21/06, revealed on

from and must not be subjected to abuse by

patient, family members, friends, or other

anyone, including but not limited to facility staff,

other patients, staff of other agencies serving the

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page six, that each patient has the right to be free

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Facility ID: OH00448

Residents with allegations of abuse

will receive a thorough investigation

appropriate agencies immediately by

and reported timely to the

the Administrator/Designee...

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4193216 Page: 3:15 A G Va (1000 O 4 E) WHZ Pop C #: 1-1 Filed: 01/06/15 Page: 141 of 203 PAGEID #: 158 06/28/28/12 16:18 937-653-6817 HEARTLAND/I IRRANA HEARTLAND/URBANA

ZENTERS FOR MEDICARE & MEDICAID SERVICES  ATEMENT OF DEFICIENCIES ID PLAN OF CORRECTION (X1) PROVIDER/SUPPLIER/GLIA IDENTIFICATION NUMBER:		(X2) MULTIPLE CONSTRUCTION A. BUILDING		PRINTED: 07/07/20 FORM APPROV OME NO. 0938-03 (X3) DATE SURVEY COMPLETED		
		365365	B, WING			
ME OF F	ROVIDER OR SUPPLIER		-		06/	24/2010
_	AND OF URBANA		- 1	reet address, city, state, zip code 741 E water Street Urbana, OH 43078		7,00
(4) ID REFIX FAG		TEMENT OF DEFICIENCIES MUST BE PRECEDED BY FULL GC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTIVE ACTION SHO CROSS-REFERENCED TO THE APPLIANCE.		(X5) COMPLETION DATE
Interpretation of investment investment in investment in investment in investment inve	disparaging and deredisparaging and deredisparaging and deredisparaging and deredisparagines, or within regardless of their against the families, or within regardless of their against the elegation of the allegation must be the allegation must be the allegation must be the supervisor and about to other officials (incrtification agency) in w, not to exceed 24 incrtification agency in w, not to exceed that indentified) had reported nurse aid (STNA). The final report defend the employee was a sestigation revealed the ware of any situation located or provided the staff witness was view and without the staff witness was view and without the lentified. She verified that the resident wition. She verified the eaccording to the possible the resident to the position of the resident wition. She verified the eaccording to the position of the resident to the position of the position of the position of the resident to the position of the position o	abuse was defined as oral, anguage that willfully included begatory terms to patients or a hearing distance, le, ability to comprehend, or dicated the facility must allegations are thoroughly to prevent any further the investigation proceeds, le immediately reported to use prevention coordinator including state survey and accordance with stated mours after discovery of the prevented incident of a staff member ted overhearing State () #75 cursing at Resident at the resident was in. The investigation was for review.  The investigation was for review.  The investigation could not definition of verbal of the facility conclusion as unaware of any the definition of verbal of the graph of the definition of verbal of the graph of the graph of the definition of the graph		Administrator and ADNS we educated on F Tag 226 by C Consultant and or designee of before 8/3/2010.  Staff will be inserviced on R. Rights and Abuse, Neglect, a Misappropriation of Fund, an Nurses will be inserviced on documentation guidelines and reporting by the ADNS and or designee on or before 8/3/201  Abuse Audit tool will be computed by the Administrator/designee The quality assessment and assurance (QAA) committee we walldate the actions taken are effectively resolving the cited is and verify the dates of completional computers.	linical on or  esidents  nd d proper l timely r 0.	

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16:18 93/~653~681/

HEAR (LAND/URBANA

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JEPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 ENTERS FOR MEDICARE & MEDICAID SERVICES FORM APPROVED OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER; PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY COMPLETED A. BUILDING B. WING 365365 ME OF PROVIDER OR SUPPLIER 06/24/2010 STREET ADDRESS, CITY, STATE, ZIP CODE EARTLAND OF URBANA 741 E WATER STREET URBANA, OH 4307B X41 In SUMMARY STATEMENT OF DEFICIENCIES PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE in (EACH DEFICIENCY MUST BE PRECEDED BY FULL REFIX (X5) COMPLETION DATE PREFIX TAG REGULATORY OR LEC IDENTIFYING INFORMATION) CROSS-REFERENCED TO THE APPROPRIATE TAG DEFICIENCY) Continued From page 10 F 226 personnel file of STNA #75 did not indicate additional abuse education or disciplinary action related to the 09/21/09 allegation of verbal abuse of a resident. 2. Review of the facility reported incident of 11/06/09 which was reported to the state agency on 11/09/09 revealed that STNA #75 was overheard yelling at Resident #15. The incident was witnessed by the charge nurse and an STNA. The employee was suspended, the investigation was completed and the employee was terminated. Interview of the Corporate Registered Nurse #72 on 06/24/10 at 1:45 P.M. revealed that the facility investigation concluded the incident had occurred on 11/06/09 and was reported to the State Agency on 11/09/09. The final report sent to the state agency on 11/13/09 indicated that STNA#75 had been terminated on 11/20/09. She verified that STNA #75 had been named in an alleged incident of verbal abuse of a resident on 09/21/09 according to incidents reported to the State Agency by the facility. She verified that the report indicated that another STNA (unidentified) had witnessed and reported the previous incident, She verified that the personnel file of STNA #75 did not reflect that the incident had occurred and that the investigation could not be located for F 272 Comprehensive Assessments review. The facility will continue to ensure 8/3/10 483.20, 483.20(b) COMPREHENSIVE F 272 ASSESSMENTS comprehensive assessment for :=D change in condition and bowel The facility must conduct initially and periodically function. a comprehensive, accurate, standardized reproducible assessment of each resident's Residents # 46and # 26 received a functional capacity. thorough abdominal assessment and

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Anspach Meeks Ellenberger, LL 4193216979 73/-023-081/

HEARTLAND/URBANA

30/41

DEPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 CENTERS FOR MEDICARE & MEDICAID SERVICES FORM APPROVED OMB NO. 0936-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION D PLAN OF CORRECTION (X3) DATE SURVEY COMPLETED IDENTIFICATION NUMBER: A. BUILDING B. WING 365365 06/24/2010 WE OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE EARTLAND OF URBANA 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRÉCEDED BY FULL REGULATORY OR LSC (DENTIFYING INFORMATION) PROVIDER'S PLAN OF CORRECTION REFIX (X5) COMPLETION DATE PREFIX (EACH CORRECTIVE ACTION SHOULD BE TAG TAG CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY) F 272 Continued From page 11 F 272 clinical record has been updated to A facility must make a comprehensive assessment of a resident's needs, using the RAI reflect the same. Resident # 46 and # specified by the State. The assessment must 26 suffered no ill effects from a lack include at least the following: of bowel movements every three Identification and demographic information; days. These said residents continue Customary routine: to receive medications to manage Cognitive patterns: bowel function Communication: Vision: Mood and behavior patterns: Like Residents received a though Psychosocial well-being; abdominal assessment and their Physical functioning and structural problems; clinical record has been updated to Continence; reflect the same by the Disease diagnosis and health conditions; Dental and nutritional status: ADNS/Designee. Physician was Skin conditions: notified for bowel management Activity pursuit; measures if indicated by the Medications; ADNS/Designee. Special treatments and procedures; Discharge potential; Documentation of summary Information regarding Nursing Staff will be inserviced on the additional assessment performed through the proper abdominal assessing. resident assessment protocols; and documentation guidelines for Documentation of participation in assessment. recording of bowel movements, and proper notification to the Physician This REQUIREMENT is not met as evidenced for condition change by the ADNS and or designee on or before Based on record review and staff interview, the 8/3/2010. facility falled to enusre assessess residents were assessed for change in condition and bowel function. This affected two (Residents #26 and BM Audit Tool will be completed #46) of 11 sampled residents. three times a week for 4 weeks by the ADNS/Designee. Finding included; 1. Review of the June 2010 physician order sheet revealed Resident #26 had diagnoses which included diabetes, muscular dystrophy,

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Facility ID: QH00448

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16:18 937-653-6817

HEARTLAND/URBANA

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PAGE 31/41 DEPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 FORM APPROVED **DENTERS FOR MEDICARE & MEDICAID SERVICES** OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION ID FLAH OF CORRECTION (X3) DATE SURVEY IDENTIFICATION NUMBER: COMPLETED A. BUILDING B. WING 365365 06/24/2010 AME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE **IEARTLAND OF URBANA** 741 E WATER STREET URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (X4) ID PROVIDER'S PLAN OF CORRECTION (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) REFIX (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE (XS)
GOMPLETION PREFIX DAT TAG DATE DEFICIENCY Continued From page 12 F 272 The quality assessment and osteomyelitis and ohronic kidney disease. The assurance (QAA) committee will minimumm data set (MDS) assessment dated 05/13/10 revealed the resident had no short or validate the actions taken are long term memory impairment, had difficulty with effectively resolving the cited issues decisions in new situations, required extensive to and verify the dates of completion. total care for activities of dally living, had a suprapubic urinary drainage cathetere and pressure ulcers. Nursing notes dated 06/11/10 at 5:00 A.M. stated Resident #26 complained of abdominal pain. His abdomen was distended. Bowel sounds were present in all four quadrants, There was no documation that vital signs were assessed. Pain medication was given at that time. There was no documentation that the resident was reassessed until nursing notes dated 06/11/10 at 11:30 P.M., which identified the resident complained of abdominal pain. The resident's abdomen was distended, hard, firm, red, and warm to touch. His abdomen appeared three time larger than normal. The resident stated he could not eat due to pain and cramping. Pain medications were given but were not effective. The physician was notified at 11:30 P.M. and ordered the resident sent to the emergency room. The ambulance was called, arrived at 12:05 A.M., and the resident admitted to the hospital. During an interview on 6/22/10 at 1:00 PM, LPN #55 verified the resident was not reassessed in a timely manner. 2. Review of the clinical record diagnosis report for Resident #46 revealed diagnoses of dementia, obstructive hydrocephalus, constipation,

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depression, anxiety, asthma, atrial fibrillation, blurred vision, and malnutrition. She was admitted on 02/16/08 and resided on the secured

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ATEMENT OF DEFICIENCIES D PLAN OF CORRECTION  (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:		(X2) M A BUII B. WIN	-	(X3) DATE	D. 0938-0391 SURVEY LETED	
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F 272	through 05/10/10 for and a gastric feedin (activity of daily living the Nurse Alds, for revealed that she ha	ntiy been hospitalized 05/05/10 r surgery to place a colostomy g tube. Review of the ADL g) worksheet, completed by the month of March and April ad an irregular bowel	, F 2	72	·, ·· , ··	
1 1 1 1 1	she had no bowel mays from a medium small size BM on 03 was documented ag 03/16/10, 03/20/10 through 04/01/10, 00/10/10 through 04/30/10. Revealed no bowel mordered routinely. Remedication orders remagnesia suspensioneeded. Review of the days from the cords revealed that	In March 2010 and April 2010 covement documented for four a size BM on 03/02/10 until a /07/10. No bowel movement ain from 03/14/10 through through 03/22/10, 03/28/10 4/03/10 through 04/06/10, /14/10, 04/16/10 through orough 04/25/10 and 04/27/10 eview of the physician orders redications (laxatives) were eview of the as needed vealed an order for milk of a 30 milliliters by mouth as the medication administration is she received no milk of months of March or April.				
ir b ir	Review of the nurses March and April 2010 elated to constipation my indication that Re lowel movements. T	notes for the months of revealed no information  The record was silent to esident #46 had Irregular there was no entry to of her abdomen or analysis	1400		•	
# ha	46 on 06/22/10 at 2;; ad only been her atte ne week. He stated sues with constipation eviewed the record a	ling physician of Resident 30 P.M. revealed that he ending physician for about that he was aware of her on because he had s she had history of bowel he expected nurses to		* ** ** *** **************************		

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4193216979 ช6/28/2011 Anspach Meeks Ellenberger, LL

HEAR LEAND/ URDANA

12-24-2014

08:47:11 a.m.

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PRINTED: 07/07/2010 DEPARTMENT OF HEALTH AND HUMAN SERVICES FORM APPROVED CENTERS FOR MEDICARE & MEDICAID SERVICES OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY ID PLAN OF CORRECTION IDENTIFICATION NUMBER: COMPLETED A. BUILDING B. WING 365365 06/24/2010 AME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET **IEARTLAND OF URBANA URBANA. OH 43078** SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) (X4) ID ID PROVIDER'S PLAN OF CORRECTION COMPLETION DATE (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE PREFIX PREFIX TAG TAG DEFICIENCY) Continued From page 14 F 272 monitor and assess bowel movements. Interview of Registered Nurse Consultant #72 on 06/22/10 at 3:15 P.M. revealed that the facility had no written bowel protocol or policy. She stated bowel movements were recorded daily by nurse aids and tracked by the nurses. She stated that any abdominal or bowel assessment performed would be one documented in the nurses notes. During further interview of Registered Nurse #72 on 06/23/10 at 10:30 A.M. she verified that no assessment of Resident #46's bowel function or pattern of constipation had been documented in the nurses notes in March or April 2010. 8/3/10 483.25 PROVIDE CARE/SERVICES FOR :309 F 309 F309 Provide Care/Services for SS=E HIGHEST WELL BEING Highest Well Being The facility will continue to ensure Each resident must receive and the facility must residents receive timely bowel provide the necessary care and services to attain movements, antibiotic therapy and or maintain the highest practicable physical. mental, and psychosocial well-being, in emergency treatment. accordance with the comprehensive assessment and plan of care. Residents # 46and # 26 received a though abdominal assessment and clinical record has been updated to This REQUIREMENT is not met as evidenced reflect the same. Resident # 46 and # 26 suffered no ill effects from a lack Based on review of the clinical record, staff of bowel movements every three interview and physician interview, the facility failed days. These said residents continue to ensure residents received timely bowel to receive medications to manage management, antibiotic therapy and emergency services. This affected three (Residents #46, #23 bowel function. and #26) of 11 sampled residents. Findings include:

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*พ.ษา* แม่ตั้งเคลองสัมสัยสารที่ทำรับ และได้เป็น และ ก็แล้งกับ และ ก็ก

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

PRINTED: 07/07/2010 FORM APPROVED

SENTERS FOR MEDICARE & MEDICAID SERVICES					OMB NO	0. 0938-0391
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in the second se	1. Review of the of for Resident #46 ro obstructive hydroc depression, anxiet blurred vision, and hospitalized 05/05/surgery (colostomy Review of the ADL worksheet complet month of March an resident had a med 03/02/10 and no BN (five days). No bow documented again 04/01/10 (four days), 04/16/10 through 04/27/10 through ordered for constipation administ the resident received the months of March deview of nurses not not April 2010 reveaunt foliogen movements.	linical record diagnosis report evealed diagnoses of dementia, aphalus, constipation, y, asthma, atrial fibrillation, mainutrition. She was 10 through 05/10/10 for and gastric feeding tube). (activity of daily living) ed by Nurse Aids for the d April 2010 revealed the lum bowel movement (BM) on M until a small BM on 03/07/10 yel movement was from 03/28/10 through 04/06/10 10 through 04/14/10 (four bugh 04/10/10 (four days), yellow the days) and 1/30/10 (three days). Review ers revealed no routine stipation and an order for milk usion 30 milliliters by mouth as tion. Review of the ration records revealed that d no milk of magnesia during	F 30	Resident # 23 suffered from receiving ordered on dates received.  Facility audit of orders services will be comple before 8/3/2010 by the ADNS/Designee.  Like Resident received abdominal assessment a clinical record has been reflect the same. Physici notified for bowel manameasures if indicated by ADNS/Designee.  Nursing Staff will be insproper abdominal assess documentation guideline recording of bowel move proper notification to the for condition change, and obtaining/treating of labor orders by the ADNS and on or before 8/3/2010.  Abdominal Assessment/A Audit will be completed to a week for 4 weeks by the ADNS/Designee.	for laboratory ted on or  a though and their updated to an was gement the serviced on sing, as for ements, a Physician d timely or designee.  Notification three times	

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movements and notify physicians if no bowel

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in the state of th	Interview of Register 106/22/10 at 3:15 P.N written bowel protoco there was no standing constipation. She standing constipation. She standing constipation. She standing the standing constipation of the nurse aids and the stated that any abdorder of the constipation of 10:30 assessment off Residual term of constipation urses notes in Marchas administered durotes were silent to note lack of bowel mover the lack of bowel mover the constitution of the lack of bowel mover the lack of bo	red Nurse Consultant #72 on M. revealed the facility had no ollor policy. She stated that his orders for treatment of lated that the medical was to notify the attending ly if a resident had no bowel days and the physician could be individually. She stated ments were recorded daily by acked by the nurses. She minal or bowel assessment documented in the nurses lew of Registered Nurse #72 A.M. revealed no lent #46's bowel function or in was documented in the nor April 2010, no laxative ing that time and the nurses of that time and the nurses of the physician of ements.	F 30	The quality assessment as assurance (QAA) commit validate the actions taken effectively resolving the cand verify the dates of con	tee will are	
in os m OS lor de tot su pre 5:0	stealed Resident #26 cluded diabetes, mu steomyelitis and chroinimum data set (ME 6/13/10 revealed the ng term memory imposisions in new situatial care for activities prapubic urinary drainssure ulcers. Nursi 20 A.M. stated Resid dominal pain. His at wel sounds were pre	onlic kidney disease. The DS) assessment dated resident had no short or alrment, had difficulty with ions, required extensive to of daily living, had a				

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	365365				06/	24/2010
	PROVIDER OR SUPPLIER		7	REET ADDRESS, OITY, STATE, ZIP CODE 741 E WATER STREET JRBANA, OH: 43078		
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL - LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORREC (EACH CÓRRECTIVE ACTION SHO CROSS-REFERENCED TO THE APPR DEFICIENCY)	ULD BE	COMPLETION DATE
F 309	Continued From pa	age 17	F 309	*		
	assessed. Pain me time. There was no resident was reass	edication was given at that o documentation that the essed until nursing notes 1:30 P.M., which identified the	L 208	V ~		
	resident complaine resident's abdomer	d of abdominal pain. The was distended, hard, firm, uch. His abdomen appeared			1	
1	three time larger the stated he could not Pain medications w effective. The physi- P.M. and ordered the emergency room.	an normal. The resident eat due to pain and cramping, ere given but were not cian was notified at 11:30 e resident sent to the he ambulance was called, l., and the resident admitted	1	* n		*)
1:	#55 verified the resid	on 6/22/10 at 1:00 PM, LPN dent was not reassessed in a mergency care was delayed.		E 6		
t A	revealed Resident #. Alzheimer's dementi leukemia. Review of 05/02/10 at 7:45 PM ordered a culture of the ncreased drainage. he specimen was obta A.M., results were re 05/11/10 and Reside antiblotic eye medica	sian orders for May 2010 23 had diagnoses including a and chronic lymphocytic f nursing notes dated revealed the physician the resident's right eye due to Laboratory results revealed otalned on 05/08/10 at 10:30 turned to the facility on nt #23 was not started on titlon until 05/20/10. This was				Ē
, NO	Ouring Interview on 0 Medical Director (MD therwise, laboratory btained within one d the MD affirmed anti	5 on 06/22/10 at 1:00 PM. 6/22/10 at 2:30 P.M., the ) stated, unless specified specimens should be ay of the physician order. biotic therapy was delayed. IMEN IS FREE FROM	F 329		,	

CMS-2567(02-99) Previous Versions Obsolete

Event ID: 508T11

Facility ID; QH00448

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08:48:30 a.m. 12-24-2014 64/102
HEARTLAND/URBANA 64/102

ENTE		TH AND HUMAN SERVICES  E & MEDICAID SERVICES  (X1) PROVIDER/SUPPLIER/GLIA	1000	U TIDLE BOMETON	-OMB NO	APPROVE 0938-039
	OF CORRECTION	IDENTIFICATION NUMBER:	A. BUIL	ULTIPLE CONSTRUCTION  DING	(X3) DATE SURVEY COMPLETED	
365366			B. WIN	G	06/2	4/2010
	PROVIDER OR SUPPLIER			STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET URBANA, OH 43076		
(X4) ID PREFIX TAG	(EACH DEFICIENC	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL LSC IDENTIFYING INFORMATION)	ID PREFU TAG	PROVIDER'S PLAN OF CORRECTIVE ACTION SHOOLS REFERENCED TO THE APPLICATION OF THE APPLICAT	OULD BE	COMPLETION DATE
F 329 SS=D	UNNECESSARY D	DRUGS  Ig regimen must be free from	F 32	Unnecessary Drugs The facility will continue to	D	8/3/10
	drug when used in duplicate therapy); without adequate m Indications for its us adverse consequen	An unnecessary drug is any excessive dose (including or for excessive duration; or nonitoring; or without adequate se; or in the presence of ices which indicate the dose or discontinued; or any	+	document adequate indicat of PRN ant anxiety medica non-pharmacological interprior to the administration opain medication	tions and entions	1
	combinations of the Based on a compre resident, the facility who have not used a given these drugs un therapy is necessary as diagnosed and di record; and resident drugs receive gradure behavioral interventi	reasons above.  hensive assessment of a must ensure that residents antipsychotic drugs are not nless antipsychotic drug / to treat a specific condition ocumented in the clinical s who use antipsychotic al dose reductions, and ons, unless clinically n effort to discontinue these		Resident #1 and # 10 suffer effects from receiving phys ordered medications. Residents receiving PRN medications have been revie appropriate documentation indication for use of PRN medications as well as non-pharmacological intervention provided prior to administra PRN medications by the ADNS/designee.	ewed for of	
b B a d ne fa in	y: ased on clinical rec nd review of facility ocument adequate i eeded narcotic enti- iiled to document no terventions prior to ercotic pain medical	T is not met as evidenced ord review, staff interviews policy, the facility failed to indication of use for an as anxiety medication and on-pharmacological administering an as needed tion. This affected two 0) of 11 sampled residents.	ADNS/designee.  Nurses will be inserviced on proper documentation of indications of use and non-pharmacological interventions prior to the administration of PRN medications by the ADNS or designee on or before 8/3/2010		s of use	

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Event ID: 50BT11

Facility ID: OH00448

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Anspach Meeks Ellenberger, LL

PAGE

08:48:49 a.m. 06/28/2011 15:18 HEARTLAND/URBANA 937-653-6817

DEPARTMENT OF HEALTH AND HUMAN SERVICES PRINTED: 07/07/2010 FORM APPROVED ENTERS FOR MEDICARE & MEDICAID SERVICES OMB NO. 0938-0391 ATEMENT OF DEFICIENCIES (X1) PROVIDER/SUPPLIER/CLIA (X2) MULTIPLE CONSTRUCTION (X3) DATE SURVEY D PLAN OF CORRECTION IDENTIFICATION NUMBER: COMPLETED A. BUILDING B. WING 365365 06/24/2010 ME OF PROVIDER OR SUPPLIER STREET ADDRESS, CITY, STATE, ZIP CODE 741 E WATER STREET EARTLAND OF URBANA URBANA, OH 43078 SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION) X4) ID PROVIDER'S PLAN OF CORRECTION (X5) COMPLETION DATE RÉFIX TAG PREFIX (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE TAG DEFICIENCY) = 329 Continued From page 19 F 329 Findings Include: Psychotropic Medication Audit will be completed 3 time's per week for 4 1. Review of the Admission Record for Resident weeks by the ADNS/designee... #1 revealed an admission date of 01/18/08. Review of the Diagnosis Report revealed diagnosis which included chronic obstructive The quality assessment and pulmonary disorder, anxiety, diabetes, dementia. assurance (QAA) committee will schizophrenia, psychosis, elevated blood validate the actions taken are pressure, congestive heart failure, depression effectively resolving the cited issues and obesity. Review of the Minimum Data Set and verify the dates of completion (MDS) assessment dated 04/22/10 revealed Resident #1 had difficulty remembering short and long term memories and was moderately cognitively impaired. Review of the Plan of Care regarding pain for Resident #1 dated 03/25/10 stated non-pharmacological interventions for pain included: redirect with television; reposition; offer comfort foods prior to administering the pain medication. Review of Plan of Care regarding anti-anxiety medication state to monitor mood, assure basic needs are met, offer to decrease environmental stimulus by offering to close blinds, and offer soft music are to be tried prior to administering the anti-anxiety medication. Review of the Medication Administration Record (MAR) for June, 2010 revealed an order for .25 milligrams (mg) of Alprazolam (Xanax anti-anxiety medication) as needed (prn) every eight hours. Further review of the MAR revealed the medication had been administered 18 times in June. Continued review of the MAR revealed no documentation as to why the medication had been administered on these dates. Review of the nurse's notes during this period revealed no documentation as to why the medication had been administered or what behaviors the resident

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66/10
66/10

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08:49:08 a.m. 12-24-2014 66 /102

PLAN	NT OF DEFICIENCIES OF CORRECTION	RE & MEDICAID SERVICES  (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  365365	A. BUILD B. WING	TIPLE CONST	RUCTION	(X3) DATE COMP	O. 0938-03 SURVEY PLETED
	PROVIDER OR SUPPLIER		5	FREET ADDRE	SS, CITY, STATE, ZIP COL		24/2010
	-AND OF URBANA			741 E WATEI URBANA, O			
) ID EFIX NG	REGULATORY OR I	ATEMENT OF DEFICIENCIES Y MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	PREFIX TAG	I CAG	OVIDER'S PLAN OF CORI H CORRECTIVE ACTION S REFERENCED TO THE A DEFICIENCY)	LIMIN DO	(XS) COMPLETION DATE
329	Continued From pa was exhibiting. Continued review o revealed an order d	f the MAR for June 2010	F 329	ž,	To an		
	nydrocodone/APAP analgesic) every six severe pain. Reviev medication was adn no documentation a	5-500 (Vicodin – narcotic hours pm for moderate to v of the MAR revealed the pinistered 11 times, type with		£	P		
2 #Rdddaddddddddddddddddddddddddddddddddd	2. Review of the Adi 10 revealed an adm Review of the Diagno lagnosis which inclu- elusions, hearing lo- nd history of craniot ated 04/12/10 revea fficulty remembering as moderately cogn	mission Record for Resident dission date of 01/03/09, psis Record revealed ded dementia with ss, brain cancer, epllepsy, pmy. Review of the MDS led Resident #10 had g short term memories and litively impaired.				Y	9
no rep to the me act	on-pharmacological position, and comfor administering the pa Plan of Care regar edications states modeds are med, and end	nterventions of activities, t foods are to be tried prior		4		\$	v
01/t (Ath	NR) dated June, 201 05/10 for .5 milligrar van - anti-anxiety m rs. Further review o	on Administration Record 0 revealed an order dated ns (mg.) of Lorazepam edication) pm every six of the MAR revealed the stered nine times in June.	+ 1	w (5)	· (age a)		

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4193216979 Anspach Meeks Ellenberger, LL 67/102

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D PLAN OF CORRECTION (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:		E & MEDICAID SERVICES  (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION A. BUILDING		(X3) DATE	M APPROV O. 0938-0: SURVEY LETED
		365385	B, W	ING		
	PROVIDER OR SUPPLIER			STREET ADDRESS, CITY, STATE, ZIP C	06/	24/2010
	AND OF URBANA	3 -		741 E WATER STREET URBANA, OH 43078	CODE	
X4) ID REFIX TAG		TEMENT OF DEFICIENCIES MUST BE PRECEDED BY FULL BC IDENTIFYING INFORMATION)	PREFI TAG	PROVIDER'S PLAN OF CO (EACH CORRECTIVE ACTIO CROSS-REFERENCED TO THE	N SHOULD BE	COMPLETIC DAYE
329	Continued From pag	Je 21	-	DEPIGIENCY		
1	been administered on nurse's notes during documentation as to been administered or was exhibiting. Review Vicodin was administ no documentation as	interventions had been tried	F 3			
m be no profund and intrab Readil Do correspond 2 483 SV6	pedications were administration to administering the penaltrian to administering the resident to administering the resident there were the penaltrian to administering the resident or non-perventions tried prior ove medications for I eview of the facility poministration dated 03 cumentation included inplaints and subsequents and subsequents and subsequents and subsequents and subsequents are subsequents.	n.) #65 stated the nurses ry time why any prn inistered, including what demonstrated and what nterventions were tried ne medication. RN #65 as no documentation of harmacological to administering the both of these residents. dicy regarding medication /2010 revealed Suggested if unusual observations or uent interventions. DBTAIN LABORATORY	F 502	F 502 Provide/Obtain Laber Services-Quality/Timely The facility will continue to laboratory orders in a timely as per facility guidelines. Resident # 23 laboratory cu	o obtain y manner	/3/10
wy.	REQUIREMENT is ad on record review,	not met as evidenced		obtained and this said reside received Physician ordered treatment.	iture was	

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4193216979 Anspach Meeks Ellenberger, LL 08:49:43 a.m. 12-24-2014 68 /102

CENTERS FOR MEDICARE & MEDICAID SERVICES ATEMENT OF DEFICIENCIES ID PLAN OF CORRECTION  (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  365365		(X2) MULT	TIPLE CONSTRUCTION	FORM APPROV OMB NO. 0938-0: (X3) DATE SURVEY COMPLETED	
		B. WING			
ME OF PROVIDER OR SUPPLIER				06/	24/2010
ARTLAND OF URBANA		1 7	REET ADDRESS, CITY, STATE, ZIP CODE 141 E WATER STREET JRBANA, OH 43078		
EFIX   (EACH DEFICIENCY	TEMENT OF DEFICIENCIES MUST BE PRECEDED BY FULL SC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRE- (EACH CORRECTIVE ACTION SHO CROSS-REFERENCED TO THE APP DEFICIENCY)	3111 0 00	(X5) COMPLETIO DATE
Findings included; Review of physician Resident #23 had dia Alzheimer's demential leukemia. Review of 05/02/10 at 7:45 PM ordered a culture of thincreased drainage. The specimen was ob A.M., results were ret 05/11/10 and Resider antibiotic eye medicat confirmed by LPN #55 During interview on 06 Medical Director state otherwise, laboratory series and the confirmed by LPN #55 descriptions.	the facility failed to timely rvices for Resident #23, orders for May 2010 revealed agnoses including a and chronic lymphocytic invising notes dated revealed the physician he resident's right eye due to Laboratory results revealed tained on 05/08/10 at 10:30 urned to the facility on 1 #23 was not started on lon until 05/20/10. This was 5 on 06/22/10 at 1:00 PM.	F 502	The facility will conduct an orders for laboratory services ensure quality / timely labor services and treatment on or 8/3/2010 by the ADNS/Desi Nursing Staff will be inserviced obtaining timely laboratory inotification to the Physician timely treatment by the ADN or designee on or before 8/3.  Lab Audit Tool will be compared times a week x 1 month ADNS/Designee.  The quality assessment and assurance (QAA) will validate actions taken are effectively resolving the cited issues and the dates of completion.	es to atory before gnee  ced on services, and V2010  bleted by the	

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(130th General Assembly) (Substitute House Bill Number 290)

## **AN ACT**

To amend sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 and to enact sections 1901.028, 1907.04, 2301.04, 2501.20, and 3313.791 of the Revised Code regarding the use of school district premises by members of the public and immunity from civil liability for a school district and schools when permitting members of the public to use school premises, regarding the use of results of an inspection of a nursing home or the results of a Medicare or Medicaid survey of a nursing facility in an advertisement, regarding the continued orderly operation of the courts in case of a civil disorder, or other extraordinary circumstance, and regarding the limitation of claims arising out of skilled nursing care or personal care services provided in a home.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 be amended and sections 1901.028, 1907.04, 2301.04, 2501.20, and 3313.791 of the Revised Code be enacted to read as follows:

Sec. 1901.028. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a municipal court within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws.

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cancels, or rescinds the order.

(B) The authority of an administrative judge of a municipal court to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a municipal court operates in a temporary location pursuant to division (A) of this section, the court shall continue to have the territorial jurisdiction set forth in section 1901.02 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the municipal court shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court: (b) The legislative authorities of the local funding authorities of the court:

(c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

(2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.

(E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of the following shall occur:

(1) The administrative judge of the municipal court shall provide notice by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court.

(b) The legislative authorities of the local funding authorities of the court:

(c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

(2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location

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of the court, including the site of the permanent location and the date on which operations shall commence at the permanent location.

Sec. 1907,04. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a county court within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a county court to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a county court operates in a temporary location pursuant to division (A) of this section, the court shall continue to have the territorial jurisdiction set forth in section 1907.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to division (A) of this section, both of the following shall occur:

(1) The administrative judge of the county court shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;
 (b) The legislative authorities of the local funding authorities of the court;

(c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

(2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.

(E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of

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the following shall occur:

(1) The administrative judge of the county court shall provide notice by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

(b) The legislative authorities of the local funding authorities of the court;

(c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.

(2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location of the court, including the site of the permanent location and the date on

which operations shall commence at the permanent location.

Sec. 2301.04. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a division of a court of common pleas within the territorial jurisdiction of the division, the administrative judge of the division may issue an order authorizing the division to operate at a temporary location inside or outside the territorial jurisdiction of the division. The order shall identify the temporary location at which the division shall operate and the date on which operations shall commence at the temporary location. The division shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a division of a court of common pleas to issue an order authorizing the division to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the

Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a division of a court of common pleas operates in a temporary location pursuant to division (A) of this section, the division shall continue to have the territorial jurisdiction set forth in section 2301.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the division were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to

division (A) of this section, both of the following shall occur:

(1) The administrative judge of the division of the court of common pleas shall provide notice and a copy of the order by regular or electronic mail to all of the following:

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- (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court:
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the division operates and maintains a web site, the web site shall provide notification of the operation of the division at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.

(E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of the following shall occur:

- (1) The administrative judge of the division of the court of common pleas shall provide notice by regular or electronic mail to all of the following:
  - (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court:
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the division operates and maintains a web site, the web site shall provide notification of the operation of the division at the permanent location of the division, including the site of the permanent location and the date on which operations shall commence at the permanent location.

Sec. 2305.113. (A) Except as otherwise provided in this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action accrued.

- (B)(1) If prior to the expiration of the one-year period specified in division (A) of this section, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so
- (2) An insurance company shall not consider the existence or nonexistence of a written notice described in division (B)(1) of this section in setting the liability insurance premium rates that the company may charge the company's insured person who is notified by that written notice.

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(C) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in division (D) of this section, both of the following apply:

(1) No action upon a medical, dental, optometric, or chiropractic claim shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or

chiropractic claim.

(2) If an action upon a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or

chiropractic claim, then, any action upon that claim is barred.

- (D)(1) If a person making a medical claim, dental claim, optometric claim, or chiropractic claim, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in the exercise of reasonable care and diligence, discovers the injury resulting from that act or omission before the expiration of the four-year period specified in division (C)(1) of this section, the person may commence an action upon the claim not later than one year after the person discovers the injury resulting from that act or omission.
- (2) If the alleged basis of a medical claim, dental claim, optometric claim, or chiropractic claim is the occurrence of an act or omission that involves a foreign object that is left in the body of the person making the claim, the person may commence an action upon the claim not later than one year after the person discovered the foreign object or not later than one year after the person, with reasonable care and diligence, should have discovered the foreign object.
- (3) A person who commences an action upon a medical claim, dental claim, optometric claim, or chiropractic claim under the circumstances described in division (D)(1) or (2) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in division (D)(1) of this section or within the one-year period described in division (D)(2) of this section, whichever is applicable.
  - (E) As used in this section:
- (1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those that are owned or

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operated by the state, political subdivisions, any person, any corporation, or any combination of the state, political subdivisions, persons, and corporations. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or osteopathic medicine and surgery in this state.

- (3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, hospital, home, or residential facility, against any employee or agent of a physician, podiatrist, hospital, home, or residential facility, or against a licensed practical nurse, registered nurse, advanced practice registered nurse, physical therapist, physician assistant, emergency medical technician-basic, emergency technician-intermediate, or emergency medical technician-paramedic, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes the following:
- (a) Derivative claims for relief that arise from the plan of care, medical diagnosis, eare, or treatment of a person;
- (b) Claims that arise out of the plan of care, medical diagnosis, eare, or treatment of any person and to which either of the following applies:
  - (i) The claim results from acts or omissions in providing medical care.
- (ii) The claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.
- (c) Claims that arise out of the plan of care, medical diagnosis, eare, or treatment of any person and that are brought under section 3721.17 of the Revised Code:
- (d) Claims that arise out of skilled nursing care or personal care services provided in a home pursuant to the plan of care, medical diagnosis, or treatment.
- (4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.
- (5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.
- (6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that

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arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

- (7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:
- (a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse;
- (b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.
- (8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the board of nursing.
- (9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.
- (10) "Chiropractor" means any person who is licensed to practice chiropractic by the state chiropractic board.
- (11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.
- (12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.
  - (13) "Physical therapist" means any person who is licensed to practice

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physical therapy under Chapter 4755. of the Revised Code.

- (14) "Home" has the same meaning as in section 3721.10 of the Revised Code.
- (15) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code.
- (16) "Advanced practice registered nurse" means any certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.
- (17) "Licensed practical nurse" means any person who is licensed to practice nursing as a licensed practical nurse by the board of nursing pursuant to Chapter 4723. of the Revised Code.
- (18) "Physician assistant" means any person who holds a valid certificate to practice issued pursuant to Chapter 4730. of the Revised Code.
- (19) "Emergency medical technician-basic," "emergency medical technician-intermediate," and "emergency medical technician-paramedic" means any person who is certified under Chapter 4765. of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, whichever is applicable.

(20) "Skilled nursing care" and "personal care services" have the same

meanings as in section 3721.01 of the Revised Code.

Sec. 2501.20. (A) In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a court of appeals within the territorial jurisdiction of the court, the administrative judge of the court may issue an order authorizing the court to operate at a temporary location inside or outside the territorial jurisdiction of the court. The order shall identify the temporary location at which the court shall operate and the date on which operations shall commence at the temporary location. The court shall operate at the temporary location until the administrative judge withdraws, cancels, or rescinds the order.

(B) The authority of an administrative judge of a court of appeals to issue an order authorizing the court to operate at a temporary location pursuant to division (A) of this section is independent of and shall not be conditioned upon a declaration of a judicial emergency issued by the chief justice of the supreme court pursuant to Rule 14 of the Rules of Superintendence for the Courts of Ohio.

(C) For the period during which a court of appeals operates in a temporary location pursuant to division (A) of this section, the court shall

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continue to have the territorial jurisdiction set forth in section 2501.01 of the Revised Code and the court shall have jurisdiction to hear actions and conduct proceedings the same as if the court were operating within that territorial jurisdiction.

(D) As soon as practicable following issuance of an order pursuant to

division (A) of this section, both of the following shall occur:

(1) The administrative judge of the court of appeals shall provide notice and a copy of the order by regular or electronic mail to all of the following:

(a) The chief justice and administrative director of the supreme court;

- (b) The legislative authorities of the local funding authorities of the court;
- (c) All appropriate law enforcement agencies, prosecuting authorities, public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the temporary location, including the site of the temporary location and the date on which operations shall commence at the temporary location.

(E) As soon as practicable following the withdrawal, cancellation, or rescission of an order issued pursuant to division (A) of this section, each of

the following shall occur:

- (1) The administrative judge of the court of appeals shall provide notice by regular or electronic mail to all of the following:
  - (a) The chief justice and administrative director of the supreme court;
- (b) The legislative authorities of the local funding authorities of the court:
- (c) All appropriate law enforcement agencies, prosecuting authorities. public defender agencies, and local bar associations within the territorial jurisdiction of the court.
- (2) If the court operates and maintains a web site, the web site shall provide notification of the operation of the court at the permanent location of the court, including the site of the permanent location and the date on which operations shall commence at the permanent location.
- Sec. 2901.12. (A) The trial of a criminal case in this state shall be held in a court having jurisdiction of the subject matter, and, except in cases of emergency under section 1901,028, 1907.04, 2301.04, or 2501.20 of the Revised Code, in the territory of which the offense or any element of the offense was committed.
- (B) When the offense or any element of the offense was committed in an aircraft, motor vehicle, train, watercraft, or other vehicle, in transit, and it

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cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in any jurisdiction through which the aircraft, motor vehicle, train, watercraft, or other vehicle passed.

(C) When the offense involved the unlawful taking or receiving of property or the unlawful taking or enticing of another, the offender may be tried in any jurisdiction from which or into which the property or victim was taken, received, or enticed.

- (D) When the offense is conspiracy, attempt, or complicity cognizable under division (A)(2) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the conspiracy, attempt, complicity, or any of its elements occurred. If an offense resulted outside this state from the conspiracy, attempt, or complicity, that resulting offense also may be tried in any jurisdiction in which the conspiracy, attempt, complicity, or any of the elements of the conspiracy, attempt, or complicity occurred.
- (E) When the offense is conspiracy or attempt cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the offense that was the object of the conspiracy or attempt, or any element of that offense, was intended to or could have taken place. When the offense is complicity cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the principal offender may be tried.
- (F) When an offense is considered to have been committed in this state while the offender was out of this state, and the jurisdiction in this state in which the offense or any material element of the offense was committed is not reasonably ascertainable, the offender may be tried in any jurisdiction in which the offense or element reasonably could have been committed.
- (G) When it appears beyond a reasonable doubt that an offense or any element of an offense was committed in any of two or more jurisdictions, but it cannot reasonably be determined in which jurisdiction the offense or element was committed, the offender may be tried in any of those jurisdictions.
- (H) When an offender, as part of a course of criminal conduct, commits offenses in different jurisdictions, the offender may be tried for all of those offenses in any jurisdiction in which one of those offenses or any element of one of those offenses occurred. Without limitation on the evidence that may be used to establish the course of criminal conduct, any of the following is prima-facie evidence of a course of criminal conduct:
- The offenses involved the same victim, or victims of the same type or from the same group.

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(2) The offenses were committed by the offender in the offender's same employment, or capacity, or relationship to another.

(3) The offenses were committed as part of the same transaction or chain of events, or in furtherance of the same purpose or objective.

(4) The offenses were committed in furtherance of the same conspiracy.

(5) The offenses involved the same or a similar modus operandi.

(6) The offenses were committed along the offender's line of travel in this state, regardless of the offender's point of origin or destination.

- (I)(1) When the offense involves a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, the offender may be tried in any jurisdiction containing any location of the computer, computer system, or computer network of the victim of the offense, in any jurisdiction from which or into which, as part of the offense, any writing, data, or image is disseminated or transmitted by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, or in any jurisdiction in which the alleged offender commits any activity that is an essential part of
- (2) As used in this section, "computer," "computer system," "computer network," "information service," "telecommunication," "telecommunications device," "telecommunications service," "data," and "writing" have the same meanings as in section 2913.01 of the Revised Code.

(J) When the offense involves the death of a person, and it cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in the jurisdiction in which the dead person's body

or any part of the dead person's body was found.

(K) Notwithstanding any other requirement for the place of trial, venue may be changed, upon motion of the prosecution, the defense, or the court, to any court having jurisdiction of the subject matter outside the county in which trial otherwise would be held, when it appears that a fair and impartial trial cannot be held in the jurisdiction in which trial otherwise would be held, or when it appears that trial should be held in another jurisdiction for the convenience of the parties and in the interests of justice.

Sec. 3313.75. (A) For purposes of this section, "school premises" has

the same meaning as in section 3313.77 of the Revised Code.

(B) The board of education of a city, exempted village, or local school district may authorize the opening of sehoolhouses school premises for any lawful purposes.

(B)(C) In accordance with this section and section 3313.77 of the

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Revised Code, a district board may rent or lease facilities school premises under its control to any public or nonpublic institution of higher education for the institution's use in providing evening and summer classes.

(C)(D) This section does not authorize a board to rent or lease a schoolhouse school premises when such rental or lease interferes with the public schools in such district, or for any purpose other than is authorized by law.

Sec. 3313.76. Upon application of any responsible organization, or of a group of at least seven citizens, all school grounds and schoolhouses premises, as that term is defined in section 3313.77 of the Revised Code, as well as all other buildings under the supervision and control of the state, or buildings maintained by taxation under the laws of this state, shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population, and for the discussion of all topics tending to the development of personal character and of civil welfare, and for religious exercises. Such occupation should not seriously infringe upon the original and necessary uses of such properties. The public officials in charge of such buildings shall prescribe such rules and regulations for their occupancy and use as will secure a fair, reasonable, and impartial use of the same.

Sec. 3313.77. (A) For purposes of this section:

- (1) "General public" means members of the community, including both of the following:
  - (a) Students during nonschool hours;
- (b) Employees of a school or school district when not working in the scope of their employment.
  - (2) "Nonschool hours" means both of the following:
- (a) Any time prior to and after regular classroom instruction on a day that school is in session;
- (b) Any day that school is not in session, including weekends, holidays, and vacation breaks.
- (3) "Recreational meetings and entertainments" means all indoor or outdoor games or physical activities, either organized or unorganized, that are undertaken for exercise, relaxation, diversion, sport, or pleasure.
- (4) "School premises" means all indoor and outdoor structures, facilities, and land owned, rented, or leased by a school or school district.
- (B) The board of education of any city, exempted village, or local school district shall, upon request and the payment of a reasonable fee, subject to such regulation as is adopted by such board, permit the use of any school house and rooms therein and the grounds and other property under its

control premises, when not in actual use for school purposes, for any of the following purposes:

(A)(1) Giving instructions in any branch of education, learning, or the arts;

(B)(2) Holding educational, religious, civic, social, or recreational meetings and entertainments, and for such other purposes as promote the welfare of the community; provided such meetings and entertainments shall be nonexclusive and open to the general public;

(C)(3) Public library purposes, as a station for a public library, or as reading rooms:

(D)(4) Polling places, for holding elections and for the registration of voters, or for holding grange or similar meetings.

Within sixty days after the effective date of this section, the The board of education of each school district shall adopt a policy for the use of school facilities premises by the general public, including a list of all fees to be paid for the use of such facilities premises and the costs used to determine such fees. Once adopted, the policy shall remain in effect until formally amended by the board. A copy of the policy shall be made available to any resident of the district upon request.

Sec. 3313.78. Upon application of a committee representing any candidate for public office or any regularly organized or recognized political party, the board of education having control of any school grounds premises mentioned in section 3313.76 of the Revised Code, shall permit the same to be used as a place wherein to hold meetings of electors for the discussion of public questions and issues. No such meeting shall be held during regular school hours. No charge shall be made for such use, but the candidate or committee so holding a meeting shall be responsible for any damage done or expense incurred by reason thereof.

Sec. 3313,791. (A) For purposes of this section:

- (1) "School" means a school in a city, local, or exempted village school district.
- (2) "School district" means a city, local, or exempted village school district.
- (3) "School premises" has the same meaning as in section 3313.77 of the Revised Code.
- (B) Except as otherwise provided in division (C) of this section, a school or school district, a member of a school district board of education, or a school district or school employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the use of school premises under section 3313.75, 3313.76, 3313.77, or

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3313.78 of the Revised Code, unless the injury, death, or loss to person or property results from willful or wanton misconduct by the school or school district, a member of the school district board of education, or an employee of the school district or of any school in the district.

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This section does not eliminate, limit, or reduce any other immunity or defense that a school or school district, member of a school district board of education, or school district or school employee may be entitled to under Chapter 2744, or any other provision of the Revised Code or under the common law of this state.

(C) A school or school district, a member of a school district board of education, or a school district or school employee is not immune from liability in damages in a civil action as provided under division (B) of this section if the board of education of the city, exempted village, or local school district charges a fee for the use of school premises that significantly exceeds the costs incurred for the operation of the school premises.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B)(1) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

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(2)(a) If, prior to issuance of a license, a home submits a request for an expedited licensing inspection and the request is submitted in a manner and form approved by the director, the director shall commence an inspection of the home not later than ten business days after receiving the request.

(b) On request, submitted in a manner and form approved by the director, the director may review plans for a building that is to be used as a home for compliance with applicable state and local building and safety

codes.

(c) The director may charge a fee for an expedited licensing inspection or a plan review that is adequate to cover the expense of expediting the inspection or reviewing the plans. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections and reviewing plans.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit

to be licensed as a residential facility.

(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781, and 3791, of the Revised Code and the home permits the director, on

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request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or

part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

- (F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any either of the following:
- (a) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(b) An advertisement, unless the advertisement includes all of the following:

(i) The date the inspection or investigation was conducted:

(ii) A statement that the director of health inspects all homes at least once every fifteen months;

(iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;

(iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;

(v) The average number of findings and deficiencies cited in a statement

of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;

(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.

(2) Nothing in division (F)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 5165.67. The results of a survey of a nursing facility that is conducted under section 5165.64 of the Revised Code, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the survey, shall be used solely to determine the nursing facility's compliance with certification requirements or with this chapter or another chapter of the Revised Code. Those results of a survey, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any either of the following:

(A) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an administrative action by the department of medicaid or contracting agency under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(B) An advertisement, unless the advertisement includes all of the following;

(1) The date the survey was conducted;

(2) A statement that the department of health conducts a survey of all nursing facilities at least once every fifteen months;

(3) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially corrected;

(4) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the survey;

(5) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of a survey conducted under section 5165.64 of the Revised Code during the same calendar year as the survey used in the advertisement;

(6) A statement that the advertisement is neither authorized nor endorsed by the department or any other government agency.

Nothing in this section prohibits the results of a survey, a statement of

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deficiencies, or the findings and deficiencies cited in that statement on the basis of the survey under this section from being used in a criminal investigation or prosecution.

Section 2. That existing sections 2305.113, 2901.12, 3313.75, 3313.76, 3313.77, 3313.78, 3721.02, and 5165.67 of the Revised Code are hereby repealed.

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Speaker		of the House	of Representatives.
	President_		of the Senate.
Passed		, 20	
Approved		, 20	
			Governor

Sub. H. B. No. 290	,	130th G.A
The section num complete and in confe	abering of law of a general a permity with the Revised Code.	nd permanent nature is
	Director, Legislative S	Service Commission.
Filed in the office	e of the Secretary of State at C, A. D. 20,	Columbus, Ohio, on the
		Secretary of State.
File No	Effective Date	

IN THE COURT OF COMMON PLEAS FOR CHAMPAIGN COUNTY, OHIO

Heartland of Urbana OH, LLC,

Plaintiff,

V.

McHugh Fuller Law Group, PLLC,

Defendant.

Case No.

Judge

## MOTION FOR TEMPORARY RESTRAINING ORDER

ANSPACH MEEKS ELLENBERGER LLP Robert M. Anspach (0017263) J Randall Engwert (0070746) Charles D. Rittenhouse (0088012) 300 Madison Ave., Suite 1600 Toledo, Ohio 43604-2633 Telephone: (419) 246-5757

Facsimile: (419) 321-6979

Attorneys for Heartland of Urbana OH, LLC

Now comes Plaintiff Heartland of Urbana OH, LLC, d/b/a Heartland of Urbana, and submits this *Motion for Temporary Restraining Order*, pursuant to Civ.R. 65(A), in order to safeguard itself against the immediate, irreparable, and ongoing injury to its reputation in the community, within the skilled nursing industry, and to its contractual and business relationships. These injuries began immediately upon the publication of an advertisement by Defendant, as described in the *Complaint for Injunctive and Other Relief* and supported by the attached *Affidavit of Dan Arnold, LNHA*, contemporaneously filed herewith.

A Temporary Restraining Order ("TRO") is governed by Civ.R. 65(A), which allows a TRO to be granted without notice to the opposing party if two requirements are met. First, that "it clearly appears from specific facts shown by affidavit . . . that immediate and irreparable injury . .

will result to the applicant before the adverse party can be heard in opposition." *Id.* Presently, the immediate and irreparable harm required by the rule is clear stigmatic injury to Plaintiff's reputation and goodwill in the city of Urbana, Ohio, among the community of the skilled nursing industry, and to Plaintiff's contractual and business relationships. The harm is caused by Defendant's false, fraudulent, deceptive, and misleading advertisement, recently published in the community's local newspaper, the *Urbana Daily Citizen*, on December 13, 2014, and continuing from that date to the present through the internet website for the *Urbana Daily Citizen*.

The advertisement, as described in the Complaint for Injunctive and Other Relief, has the effect of accusing Plaintiff's facility of being out of compliance with government regulations and allowing the occurrence of bedsores, broken bones, unexplained injuries, and death to continue unchecked and unmitigated among its patients. More specifically, the advertisement falsely states that Plaintiff's facility has been "cited . . . for failing to provide necessary care and services to maintain the highest well-being of each resident." See Exhibits A and B attached to the Complaint for Injunctive and Other Relief. The stigmatic harm of such publications, particularly in a small community such as Urbana, is clear, and further explained and supported in the Complaint for Injunctive Relief and Affidavit of Dan Arnold, LNHA.

Simply put, Heartland of Urbana is a "Five Star" facility, as rated by the federal government, and has had no citations from government surveyors in the last two years, or in the last four years any citation comparable to the suggestive language of the advertisement. As to its irreparable and ongoing nature, the advertisement is published on the *Urbana Daily Citizen*'s website, and remains there as of the time of this filing, giving it the effect of ongoing and continual republication.

The second requirement for a TRO issued without notice to the opposing party is that the moving party's attorney "certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be given." Such certification is attached and contemporaneously filed herewith. McHugh Fuller Law Group, PLLC is a Mississippi law firm with no offices or physical presence in Ohio that make it feasible for it to appear regarding this *Motion* for a TRO.

WHEREFORE, for the foregoing reasons, Plaintiff Heartland of Urbana OH, LLC respectfully moves this Court for a temporary restraining order to remove Defendant's advertisement from the newspaper's online publication and a restraint upon Defendant from publishing any further such advertisements until such time as this matter can be heard upon the merits for preliminary and permanent restraining orders.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Robert M. Anspach (0017263) J Randall Engwert (0070746)

Charles D. Rittenhouse (0088012)

Counsel for Plaintiff,

Heartland of Urbana OH, LLC

## **CERTIFICATE OF SERVICE**

The undersigned counsel for Plaintiff certifies that a copy of the foregoing "Motion for Temporary Restraining Order" was served via ordinary U.S. and electronic mail, and facsimile this 24th day of December, 2014, upon the following:

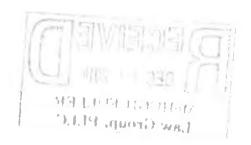
McHugh Fuller Law Group, PLLC 97 Elias Whiddon Road Hattiesburg, MS 39402

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Randall Engwert (007074



Heartland of Urbana OH, LLC,

Plaintiff,

V.

McHugh Fuller Law Group, PLLC,

Defendant.

Case No.

Judge

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Attorneys for Heartland of Urbana OH, LLC

# CERTIFICATION OF COUNSEL PURSUANT TO Civ.R. 65(A)

As set forth in the Civ.R. 65(A):

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required.

Id.

In the instant matter, and as fully supported by the accompanying *Complaint for Injunctive Relief* and *Affidavit of Dan Arnold, LNHA*, Defendant's publishing of false, fraudulent, deceptive, and misleading advertising has caused Plaintiff immediate and irreparable injury. In addition to being published in the newspaper, these advertisements appear online and are, therefore, continually republished.

Due to the emergency nature of the *Motion for Temporary Restraining Order*, Defendant is unlikely able to appear to contest the matter, inasmuch as McHugh Fuller Law Group, PLLC, is

located in Hattiesburg, Mississippi and has no office, or physical presence in Ohio. Plaintiff's counsel furnished copies of all pleadings to be filed with the Court via electronic mail and facsimile this date of December 24, 2014, and indicated their intention to proceed with filing the pleadings with the Court and seek the relief requested in the *Motion for Temporary Restraining Order*.

WHEREFORE, in light of the ongoing, immediate, and irreparable harm to Plaintiff's goodwill and contractual and business relationships, and due to the potential for Defendant to continue to unlawfully publish further false advertisements, Plaintiff respectfully requests that notice to Defendant not be required, as allowed under Civ.R. 65(A), before the Court rules on Plaintiff's *Motion for Temporary Restraining Order*.

This 24th day of December, 2014.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Robert M. Anspach (001726) Frandall Engwert (0070746)

Charles D. Rittenhouse (0088012)

Counsel for Plaintiff, Heartland of Urbana



Heartland of Urbana OH, LLC,

Case No.

Plaintiff,

Judge

v.

MOTION FOR TEMPORARY RESTRAINING ORDER

McHugh Fuller Law Group, PLLC,

ANSPACH MEEKS ELLENBERGER LLP

Defendant.

Robert M. Anspach (0017263) J Randall Engwert (0070746) Charles D. Rittenhouse (0088012) 300 Madison Ave., Suite 1600 Toledo, Ohio 43604-2633

Telephone: (419) 246-5757 Facsimile: (419) 321-6979

Attorneys for Heartland of Urbana OH, LLC

Now comes Plaintiff Heartland of Urbana OH, LLC, d/b/a Heartland of Urbana, and submits this Motion for Temporary Restraining Order, pursuant to Civ.R. 65(A), in order to safeguard itself against the immediate, irreparable, and ongoing injury to its reputation in the community, within the skilled nursing industry, and to its contractual and business relationships. These injuries began immediately upon the publication of an advertisement by Defendant, as described in the Complaint for Injunctive and Other Relief and supported by the attached Affidavit of Dan Arnold, LNHA, contemporaneously filed herewith.

A Temporary Restraining Order ("TRO") is governed by Civ.R. 65(A), which allows a TRO to be granted without notice to the opposing party if two requirements are met. First, that "it clearly appears from specific facts shown by affidavit . . . that immediate and irreparable injury . .

will result to the applicant before the adverse party can be heard in opposition." *Id.* Presently, the immediate and irreparable harm required by the rule is clear stigmatic injury to Plaintiff's reputation and goodwill in the city of Urbana, Ohio, among the community of the skilled nursing industry, and to Plaintiff's contractual and business relationships. The harm is caused by Defendant's false, fraudulent, deceptive, and misleading advertisement, recently published in the community's local newspaper, the *Urbana Daily Citizen*, on December 13, 2014, and continuing from that date to the present through the internet website for the *Urbana Daily Citizen*.

The advertisement, as described in the Complaint for Injunctive and Other Relief, has the effect of accusing Plaintiff's facility of being out of compliance with government regulations and allowing the occurrence of bedsores, broken bones, unexplained injuries, and death to continue unchecked and unmitigated among its patients. More specifically, the advertisement falsely states that Plaintiff's facility has been "cited . . . for failing to provide necessary care and services to maintain the highest well-being of each resident." See Exhibits A and B attached to the Complaint for Injunctive and Other Relief. The stigmatic harm of such publications, particularly in a small community such as Urbana, is clear, and further explained and supported in the Complaint for Injunctive Relief and Affidavit of Dan Arnold, LNHA.

Simply put, Heartland of Urbana is a "Five Star" facility, as rated by the federal government, and has had no citations from government surveyors in the last two years, or in the last four years any citation comparable to the suggestive language of the advertisement. As to its irreparable and ongoing nature, the advertisement is published on the *Urbana Daily Citizen*'s website, and remains there as of the time of this filing, giving it the effect of ongoing and continual republication.

The second requirement for a TRO issued without notice to the opposing party is that the moving party's attorney "certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be given." Such certification is attached and contemporaneously filed herewith. McHugh Fuller Law Group, PLLC is a Mississippi law firm with no offices or physical presence in Ohio that make it feasible for it to appear regarding this *Motion* for a TRO.

WHEREFORE, for the foregoing reasons, Plaintiff Heartland of Urbana OH, LLC respectfully moves this Court for a temporary restraining order to remove Defendant's advertisement from the newspaper's online publication and a restraint upon Defendant from publishing any further such advertisements until such time as this matter can be heard upon the merits for preliminary and permanent restraining orders.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Robert M. Anspach (0017263) J Randall Engwert (0070746)

Charles D. Rittenhouse (0088012)

Counsel for Plaintiff,

Heartland of Urbana OH, LLC

## CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiff certifies that a copy of the foregoing "Motion for Temporary Restraining Order" was served via ordinary U.S. and electronic mail, and facsimile this 24th day of December, 2014, upon the following:

McHugh Fuller Law Group, PLLC 97 Elias Whiddon Road Hattiesburg, MS 39402

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Randall Engwert (007074



Heartland of Urbana OH, LLC,

McHugh Fuller Law Group, PLLC,

Plaintiff.

Defendant.

Judge

Case No.

V.

ANSPACH MEEKS ELLENBERGER LLP

Robert M. Anspach (0017263) J Randall Engwert (0070746)

Charles D. Rittenhouse (0088012) 300 Madison Ave., Suite 1600

Toledo, Ohio 43604-2633

Telephone: (419) 246-5757

Facsimile: (419) 321-6979

Attorneys for Heartland of Urbana OH, LLC

# CERTIFICATION OF COUNSEL PURSUANT TO Civ.R. 65(A)

As set forth in the Civ.R. 65(A):

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required.

Id.

In the instant matter, and as fully supported by the accompanying Complaint for Injunctive Relief and Affidavit of Dan Arnold, LNHA, Defendant's publishing of false, fraudulent, deceptive, and misleading advertising has caused Plaintiff immediate and irreparable injury. In addition to being published in the newspaper, these advertisements appear online and are, therefore, continually republished.

Due to the emergency nature of the Motion for Temporary Restraining Order, Defendant is unlikely able to appear to contest the matter, inasmuch as McHugh Fuller Law Group, PLLC, is

located in Hattiesburg, Mississippi and has no office, or physical presence in Ohio. Plaintiff's counsel furnished copies of all pleadings to be filed with the Court via electronic mail and facsimile this date of December 24, 2014, and indicated their intention to proceed with filing the pleadings with the Court and seek the relief requested in the *Motion for Temporary Restraining Order*.

WHEREFORE, in light of the ongoing, immediate, and irreparable harm to Plaintiff's goodwill and contractual and business relationships, and due to the potential for Defendant to continue to unlawfully publish further false advertisements, Plaintiff respectfully requests that notice to Defendant not be required, as allowed under Civ.R. 65(A), before the Court rules on Plaintiff's Motion for Temporary Restraining Order.

This 24th day of December, 2014.

Respectfully submitted,

ANSPACH MEEKS ELLENBERGER LLP

By:

Robert M. Anspach (001726) Frandall Engwert (0070746)

Charles D. Rittenhouse (0088012)

Counsel for Plaintiff, Heartland of Urbana



HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Case No.

Judge

Plaintiff,

V.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402

Defendant.

#### AFFIDAVIT OF DAN ARNOLD, LNHA

STATE OF OHIO	}
	} SS:
COUNTY OF CHAMPAIGN	}

- 1. My name is Dan Arnold and I making this affidavit at my own free will. I am over 18 years of age and am in all ways competent to testify.
- 2. I am the Licensed Nursing Home Administrator at the skilled nursing facility known as Heartland of Urbana located at 741 E. Water Street, Urbana, Champaign County, Ohio.
- 3. I have held the position of Administrator of Heartland of Urbana since April 30, 2012.
- 4. Heartland of Urbana is an 85 bed skilled nursing facility providing short-term rehabilitation and long-term skilled nursing and rehabilitation services.
- 5. Heartland of Urbana is overall ranked by the federal government as a "Five Star" nursing facility, which is the highest ranking available to a nursing home. Heartland of Urbana received a "Five Star" rating for the government health inspection category.

- 6. Heartland of Urbana is subject to inspection by the Ohio Department of Health under the federal OBRA standards for skilled nursing facilities on a regular (roughly annual) basis and also when complaints are made to the Ohio Department of Health.
- 7. The federal OBRA standards number in the hundreds and apply to all aspects of the operation of skilled nursing facilities in the United States to specifically include nursing services provided to patients.
- 8. Heartland of Urbana was most recently subject to regular annual surveys on February 20, 2014, and November 23, 2012. The Ohio Department of Health found no deficiencies in and therefore issued no "citations" for the operation of Heartland of Urbana during the last annual surveys of February 20, 2014, and November 23, 2012, respectively.
- 9. I am aware of and familiar with the advertisement run by the law firm McHugh Fuller Law Group, PLLC in the *Urbana Daily Citizen* on December 13, 2014. I am also aware that a digital copy of the advertisement is available for viewing online through the *Urbana Daily Citizen* website.
- 10. The advertisement claims the government "has cited" Heartland of Urbana "for failing to provide necessary care and services to maintain the highest well-being of each resident." I believe the "has cited" language leads the reader to believe that the alleged citation was recent.
- 11. None of the recent surveys of Heartland of Urbana include any citation let alone a citation "for failing to provide necessary care and services to maintain the highest well-being of each resident." Based upon my review of the survey history of Heartland of Urbana, the facility last had a citation remotely similar to the advertisement's language more than four years ago on June 24, 2010.

- 12. According to the June 24, 2010, survey resulting in a citation remotely similar to the language in the advertisement, the alleged deficiency did not cause any harm to any nursing home patient. Furthermore, the alleged deficiency set forth in the June 24, 2010, survey was corrected by the facility shortly after the June 2010 survey.
- 13. In light of Heartland of Urbana's survey history the advertisement is false and misleading because it does not accurately reflect the facility's most recent citation free surveys and where it does quote what is believed to be the survey from June 24, 2010, it does not set forth the alleged "failures" as described in the more than four year old survey report.
- 14. The advertisement has the likelihood of confusing readers in to believing that "the government" does not approve of the medical care and services provided to patients of Heartland of Urbana when in fact annual government inspections over the last two years found no deficiencies in the operation of the facility to specifically include care provided to patients.
- 15. The advertisement represents that the services provided to patients of Heartland of Urbana are other than the highest quality resulting in the highest possible "Five Star" rating from the federal government.
- 16. The advertisement's false claims disparage the "Five Star" quality of care provided at Heartland of Urbana.
- 17. After publication of the advertisement on December 13, 2014, and to the present, I have had to answer questions and respond to concerns raised by employees of the facility, the head of a local guardianship program with wards who are patients of Heartland of Urbana, and an applicant for the position of Admissions Director in the facility, all of whom read the advertisement and have concerns regarding the quality of care provided at Heartland of Urbana and the survey history of the facility.

18. The false statements regarding a government citation and misleading statements regarding abuse and neglect of patients in the advertisement damages the reputation of Heartland of Urbana such that the facility will be challenged to retain current patients and attract new patients to the facility.

19.	Further	affiant	sayeth	naught.

DAN	ARNOLD	LNHA	

Taken, subscribed, and sworn to, before me this \_\_\_\_\_ day of December, 2014.

My commission expires:	
	NOT A DAY DUDY TO

NOTARY PUBLIC



HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Y 1

Case No.

Judge

Plaintiff,

V.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402

Defendant.

## AFFIDAVIT OF DAN ARNOLD, LNHA

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	} SS
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<ol><li>Further affiant sayeth na</li></ol>	ught
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DAN	ARNOLD	, LNHA	

Taken, subscribed, and sworn to, before me this day of December, 201	Taken.	, subscribed,	and sworn to,	before me	this	day	of December.	2014
----------------------------------------------------------------------	--------	---------------	---------------	-----------	------	-----	--------------	------

My commission expires:	
	NOTARY PURITO



HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Plaintiff,

V.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402,

Defendant.

Case No. 2014 CV 210

Judge Nick A. Selvaggio

Magistrate Scott D. Schockling

#### TEMPORARY RESTRAINING ORDER

Magistrate's Order

MIII: 35

Plaintiff Heartland of Urbana OH, LLC, d/b/a Heartland of Urbana, initiated this case seeking injunctive and other relief on December 23, 2014, alleging violations of the Ohio Deceptive Trade Practices Act, R.C. Chapter 4165, and Ohio's common law, stemming from Defendant McHugh Fuller Law Group, PLLC having published an advertisement in print and through the internet with the *Urbana Daily Citizen* about Plaintiff's nursing home Heartland of Urbana located at 741 E. Water Street, Urbana, Champaign County, Ohio.

With its *Complaint*, Plaintiff filed a *Motion for Temporary Restraining Order* supported by the *Affidavit of Dan Arnold, LNHA*, who is the Administrator of Heartland of Urbana. In addition to the pleadings, the Court reviewed Exhibits to the *Complaint* to include copies of the print and internet versions of the advertisement at issue in this matter.

Upon due consideration of the Complaint and exhibits thereto, Motion for Temporary Restraining Order, and Affidavit of Dan Arnold, LNHA, the Court finds that immediate and

irreparable injury, loss, or damage will result to Plaintiff due to the advertisement at issue, which justifies the issuance of a *Temporary Restraining Order* pursuant to Civ.R. 65(A).

IT IS THEREFORE ORDERED that Defendant McHugh Fuller Law Group, PLLC, and all persons in active concert, or participation with it be and same hereby are temporarily restrained and prohibited from using the advertisement attached as Exhibits A and B to the Complaint for Injunctive Relief for any purpose and in any form, or media specifically including, but not limited to print, or internet.

IT IS FURTHER ORDERED that any version, form, or medium used to convey the advertisement attached as Exhibits A and B to the Complaint for Injunctive Relief be removed from the public domain specifically including, but not limited to, the internet version/website of the *Urbana Daily Citizen* and Defendant McHugh Fuller Law Group, PLLC's website.

IT IS FURTHER ORDERED that Defendant McHugh Fuller Law Group, PLLC may be served with a copy of this *Temporary Restraining Order* by any person, or by facsimile, certified, or electronic mail.

IT IS FURTHER ORDERED that the Plaintiff shall post a security bond in the total sum of \$\_0.00\_\_\_\_.

IT IS FURTHER ORDERED that this *Temporary Restraining Order* is effective as of today's date and shall remain in full force and effect for fourteen (14) days or until <u>January 7</u>, unless otherwise ordered by the Court and that this cause is set for hearing on Plaintiff's application for a preliminary injunction on <u>January 7</u>, 2015, at <u>11:00</u> A.m.

Date: 12-24-2014

Maria Doni -/

Magistrate Scott D. Schockling Champaign Co. Common Pleas Court Heartland v. McHugh Fuller

2014 CV 210

Page 3

### **COPIES BY CLERK:**

- Robert M. Anspach, J. Randall Engwert & Charles D. Rittenhouse, Counsel for Plaintiff, Anspach Meeks Ellenberger, LLP, 300 Madison Ave., Ste. 1600, Toledo OH 43604-2633
- McHugh Fuller Law Group, PLLC, 97 Elias Whiddon Rd., Hattiesburg Mississippi 39402 via certified mail



HEARTLAND OF URBANA OH, LLC, CT Corporation System 1300 East Ninth Street Cleveland, Ohio 44114

Plaintiff,

v.

MCHUGH FULLER LAW GROUP, PLLC, 97 Elias Whiddon Road Hattiesburg, Mississippi 39402

Defendant.

Case No. 14 CV 210

Judge

24 AM 9: 0

AFFIDAVIT OF DAN ARNOLD, LNHA

STATE OF OHIO }
COUNTY OF CHAMPAIGN }

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- 19. Further affiant sayeth naught.

DAN ARNOLD, LNHA

Taken, subscribed, and sworn to, before me this 22day of December, 2014.

My commission expires:

Joyce Cooper Notary Public My Commission expires August 27, 2015